

**Trends in forest ownership, forest resources
tenure and institutional arrangements:
are they contributing to better forest
management and poverty reduction?**

Case study from Viet Nam

By
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Summary

Viet Nam is a tropical country located in the Indochina peninsula of Southeast Asia. At present, 57.6 percent of the country's land is classified as forest land, but forest cover is only 36.7 percent. Forested land in Viet Nam includes natural and plantation forests, and is categorized into production forests, protection forests and special-use forests.

Forest tenure and changing trends

The last two decades have seen radical changes in Viet Nam's forest sector towards the inclusion of various forest tenure arrangements. Until the end of the 1980s, State management was generally the only form of forest tenure. The decline of forest resources and the inefficiency of the State forest enterprise system for forest management led to changes in the role of State forest enterprises (SFEs). In addition, recognition of the role of local people in forest management and successful reform of the agriculture sector contributed to the introduction of private management as a new forest tenure arrangement. Since the early 1990s, local people have been able to participate in forest management through protection contracts. People can also have long-term land-use title and become the real owners of bare land classified as forest land.

Since the late 1990s, changing trends in forest policies in countries around the world, and donors' and practitioners' advocacy of participatory forest management have led to changes in forest policies in Viet Nam. The management of forest as private property has been increasingly recognized, with individual households being given forested land (including natural forest) and forest land-use titles in several parts of the country. Communal management of forest has also been recognized as a forest management arrangement.

At present, the following four major forest tenure arrangements can be found in Viet Nam:

- *Private property:* This is the most common forest management arrangement in Viet Nam. It includes forest management by individual households and by State and joint venture enterprises. Under this arrangement, forest is allocated to its owner for long-term management (50 years). Most forest owners under this arrangement are entitled to a legal land-use certificate.
- *State property:* Forests under the State property arrangement are managed by people's committees at different levels, army units and forest management boards. Under this arrangement, forest is allocated to a State body for an unspecified period. Where the forest falls into the special-use or protection category, its owners are entitled to receive State budget for its management.
- *Common property:* The common property arrangement is found in forest managed by collectives that are legally recognized by the State. Forest under this arrangement is allocated to a group of individuals, each of whom has similar rights and responsibilities. Owner groups are also entitled to land-use title for the area of forest they are allocated. At present, only a small area of forest is under the common property arrangement, but the potential for the future is promising.
- *Forest contracting:* This management arrangement is formed when an owner of forest (under State property) signs a contract with an organization, household, group of households or village to protect the forest. Under this arrangement, rights of ownership of the forest under contract remain with the contractor, and the contractee has only the rights specified in the contract. The contractee is entitled to a cash remuneration for protecting the contracted forest area. Contracts are usually for one year and renewable based on the satisfactory performance of the contractee.

It is important to note that there are overlapping forest tenure arrangements in practice. A forest area may formally be under the State management arrangement, but common property in practice. One of the main causes of such inconsistencies is a lack of attention to local traditions and the legitimate interests of different stakeholders, particularly those in weak and poor groups, in the implementation of forest policies at the local level. Another contributing problem is the inadequacy or total absence of monitoring mechanisms for the implementation of policy.

Regarding the relationship between sustainable forest management and the improvement of local livelihoods and poverty alleviation, experiences in Viet Nam show that people's management of forest resources appears to be more effective than forest management by other owners. Despite radical changes, forest policies in Viet Nam are still strongly protection-oriented, and forest protection and development remain major targets for the forest sector. Organizations managing forest as State property are called on to conserve the forest resources under their responsibility, because most of the forest areas under State management are protection and special-use forests. Livelihood improvement is recognized as a condition for the sustainable management of such forests, but only as a measure for forest protection. Organizations that own forest as private property are also held responsible for the forest that they have been given.

Although some forest enterprises seek to improve local people's income generation and livelihood options, most contribute very little to poverty reduction. When local people are the owners of private property forest, forest management often contributes more to livelihood improvement and – to a certain extent – poverty alleviation than it does under organizational owners. Forest can also contribute to poverty alleviation when it is managed as common property. In all cases, however, people's forest management can only contribute to poverty alleviation when certain other factors are present. For example, there is a need to improve poor people's access to the benefits of forest management, otherwise livelihood improvements may end up benefiting only the better off, thereby widening the economic gap between rich and poor.

Forest planning and monitoring

At present, there are no specific planning and monitoring systems for the different forest management arrangements in Viet Nam. Instead, the current systems of forest planning and monitoring apply to all types of forest tenure. The ultimate responsibility for forest planning and monitoring of changes in forest conditions lies with the Ministry of Agriculture and Rural Development (MARD), which assigns the tasks of forest planning to the Forest Inventory and Planning Institute (FIPI) and of forest monitoring to the Forest Protection Department (FPD).

FIPI works with provincial authorities to prepare provincial forest plans. By law, forest planning has to be based on existing land-use, forest protection and development plans, the local socio-economic conditions, and local people's demand for and capability in forest protection, use and plantation. Forest planning also has to follow the cycle for socio-economic development planning. However, at present, about 10 percent of special-use forest and all protection forest has no forest management plan. In addition, the approach followed is rather top-down, and forest planning involves little or no involvement of local forest users/owners. Most forest planning in Viet Nam concentrates on the forest itself; improvement of forest people's livelihoods is only a secondary result.

The current forest monitoring system is a recent development, which started on a trial scale in 2000 and has been functioning throughout the country since 2002. In this system, all forest owners are required by law to report changes in forest conditions to the forest protection staff/office. The changes are recorded at the commune, district and provincial levels. The system requires the cooperation of all forest owners, many of whom are reluctant to report areas of forest lost for fear of losing their budgets for protection, or even their forest titles. In addition, budget for forest monitoring has not been approved in some provinces.

A major issue with the current system is the lack of coordination between forest planning and forest monitoring in Viet Nam. At present, the two systems exist independently of each other and there is little, if any, data and experience exchange between FIPI and FPD. This creates some overlapping in work and incurs extra costs, which could be saved through better coordination. In addition, the outputs from the two systems may be inconsistent and confusing to users.

Recommendations

Given the changing trends in forest management in Viet Nam over the last two decades and based on a comparative analysis of forest management under different tenure arrangements and by different owner groups, it is proposed that forest management in Viet Nam in the future move towards greater involvement of local people, particularly local indigenous communities, in managing forest resources. To facilitate the changing trends in forest management and to improve the contribution of forest management to poverty alleviation the following recommendations are made:

- There should be a better balance of policy interests between protection and livelihoods (poverty alleviation) in the management of protection and special-use forests. In forest areas where strict protection is needed for conservation and environmental purposes, alternatives should be offered to local people to make up for their loss of the forest resources on which their livelihoods depend.
- In production forests or protection forests where strict protection is not required, initiatives should be taken to involve more local people in managing and benefiting from the forest. Forest management should be devolved, and local people be given tenure rights to forest resources. Forest devolution should be demand-oriented to avoid imposition from outside the village.
- State assistance is required to strengthen communities' capacity to realize their rights. This can be done through clear guidance on the structures to be set up and run at the community level, frequent back-up visits by local forest officials, and the State's early response to communities' calls for help. In addition, the legal framework should recognize the rights of communities to mortgage their forest Red Book Certificates (RBCs) for loans and to use their forests in joint venture commercial undertakings.
- In order for forest devolution to contribute more to poverty alleviation, it should be followed by capacity improvement programmes, and poor and disadvantaged households should be given priority in obtaining access to these programmes.

- Policies and legislation should be more concrete, easier to understand and more stable so that local people can remain in touch with current policy frameworks.
- The forest planning and monitoring systems should be harmonized. Responsible people should work out the general structure for a single planning and monitoring system, based on the two existing systems. The responsibilities of each organization, and standard operations procedures should also be elaborated and agreed.
- It is recommended that a participatory approach be consistently applied to forest planning to ensure that forest plans reflect the different interests of all stakeholders.
- A more flexible structure for forest monitoring is recommended. This structure should capture the diversity of conditions and forest owners at the local level, while allowing concise summaries of data at the national level.

Introduction

Between May and July 2005, the Food and Agriculture Organization of the United Nations (FAO) commissioned a study of forest ownership in Viet Nam, focusing on forest allocation. This study is part of FAO's pilot survey of 20 countries in Asia,⁶⁹ which aims to collect detailed data on the extent of forests according to two variables – type of ownership, and level of control over and access to resources – as part of the Global Forest Resources Assessment (FRA) 2005. The objective of the study as stated in the guideline, is “to achieve a better understanding of the relation between forest resource tenure and forest management and in particular of the implications for poverty alleviation”. The Vietnamese study focuses on the contribution of forest land allocation to poverty alleviation. Study results will support policy and law development in Viet Nam, and raise awareness about the linkages between forest ownership, management agreements and institutional arrangements on the one hand, and sustainable forest management and poverty alleviation on the other.

The lack of a data matrix and of systematic quantitative data on forest ownership⁷⁰ made it difficult for this study to employ a quantitative method. As a result, it focuses on a qualitative analysis of the available data and information, complementing this with simple quantitative tools, where possible. Many data about forests and forest owners are not updated regularly, so data from the latest available year were used.

Various sources of data/information were used in the course of the study, including direct personal communication with key informants at various levels, existing literature related to forests and forest management in Viet Nam, and the existing legal database. In addition, the study's author has extensive experience in forest devolution and management in Viet Nam.

⁶⁹ Brunei, Bangladesh, Bhutan, Cambodia, China, India, Indonesia, Japan, Republic of Korea, Democratic People's Republic of Korea, Lao People's Democratic Republic, Malaysia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, Timor-Leste and Viet Nam.

⁷⁰ Although quantitative data on forest ownership were available for the provincial level, these data could not be used for quantitative analysis because it was not possible to disaggregate them for each forest tenure arrangement.

Context: the tenure system

OVERVIEW

Viet Nam is a tropical country in the Indochina peninsula of Southeast Asia. Its territory stretches from 8° 02' to 23° 23' northern latitude and from 102° 08' to 109° 28' eastern longitude. Its total land area is 33 038 000 ha, which is divided into 64 administrative provinces and municipalities.

According to recent statistics of the Forest Protection Department (FPD, 2004), 57.6 percent of the land in Viet Nam is classified as forest land. The current forest cover is 36.66 percent (30.54 percent natural forest and 6.12 percent plantation forest, excluding new plantation).⁷¹ Since 1986, forests in Viet Nam have been classified into three use categories: production forests account for 36.3 percent of the total forested area; protection forests for 48.1 percent, and special-use forests for 15.6 percent (Table 1).

Forested land in Viet Nam can be divided into natural forests and plantation forests. Based on composition and physical setting, natural forests can be classified into timber forest, bamboo forest, mixed timber and bamboo forest, mangrove forest and forest associated with limestone mountains. Timber forest is the most dominant type, accounting for 78.6 percent of the total natural forest area. This is almost ten times as much as the second largest forest type, bamboo forest, which accounts for 7.9 percent of the total. These are followed by mixed timber and bamboo forest, accounting for 6.8 percent of the total, forest associated with limestone mountains, 6.1 percent of the total, and mangrove forest, 0.7 of the total, mostly in coastal areas of the central and southern provinces.

TABLE 1
Forest classification according to use

Forest type	Total area (ha)	Production forest (ha)	Protection forest (ha)	Special-use forest (ha)
I. Forested area	12 306 858	4 465 717	5 920 688	1 920 453
A. Natural forest	10 088 288	3 145 251	5 105 961	1 837 076
B. Plantation forest	2 218 570	1 320 466	814 726	83 378
II. Unforested forest area	6 718 576	2 529 807	3 709 440	479 328
Total forest area	19 025 434	6 995 525	9 630 128	2 399 782

Source: FPD, 2004.

STAKEHOLDERS IN FOREST MANAGEMENT

According to the Constitution of the Socialist Republic of Viet Nam, all forest resources (including land, trees and wildlife) are under the ownership of the people. The State manages forest resources in accordance with master plans and laws, and legally entrusts the management of forest to specific actors. At present, eight major groups of stakeholders are involved in forest activities:

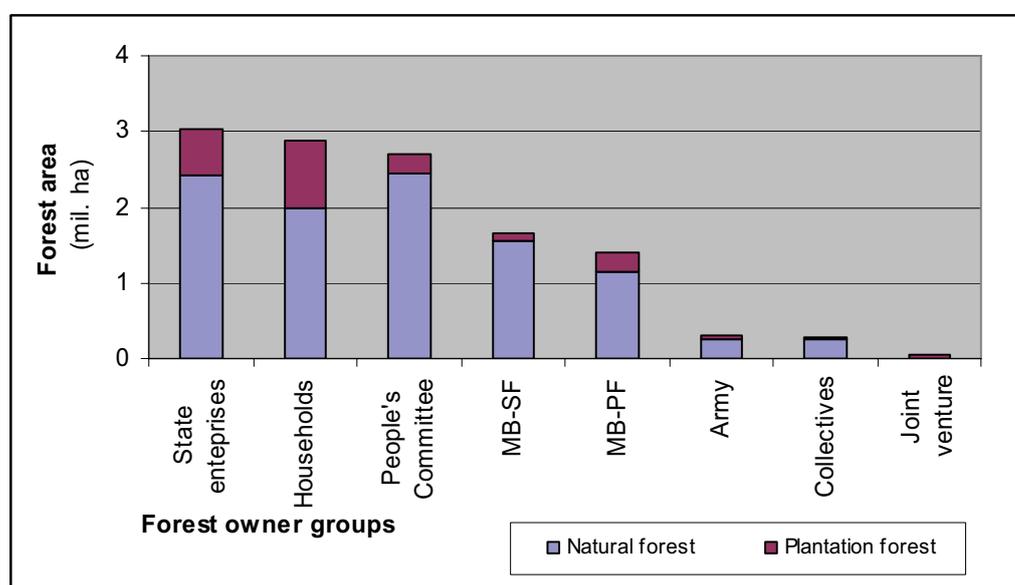
- State enterprises, mostly State forest enterprises (SFEs) and State forest companies;
- management boards for protection forest (MBPFs);
- management boards for special-use forest (MBSFs);
- joint venture enterprises;

⁷¹ In December 1999, forest cover was 33.2 percent (28.7 percent natural forest and 4.5 percent forest plantation).

- individual households;
- collectives, such as groups of households and communities;
- army units;
- people's committees (PCs), mostly at the commune level (CPCs).

State enterprises are the largest forest owners in Viet Nam (Figure 1); in December 2004 they were managing about 3 million ha, or 24.6 percent of the total forested area (including natural and plantation forest). With 23.3 percent of total forested area under their management, individual households are the second largest owner group. PCs are the largest owners of natural forest, with almost 2.5 million ha, or 24.3 percent of the total natural forest area. Individual households own the most plantation forest, with 872 000 ha, or 39.2 percent of the total. Collectives and joint venture enterprises are the two smallest groups of forest owners: collectives own 0.6 million ha of forest, and joint venture enterprises 68 500 ha.

FIGURE 1
Forest area by owner group, December 2004



Data are sorted in descending order of total forest area.

Source: FPD, 2004.

RIGHTS AND RESPONSIBILITIES OF FOREST OWNERS

The discussion that follows focuses on forest management by SFEs, MBPFs, MBSFs, individual households, collectives and PCs, which together manage more than 97 percent of the total forested area in the country. Forest management by joint venture enterprises and army units will not be discussed because there is little available information about this:

- An MBSF is responsible to the State for protecting, managing and conserving the area of special-use forest under its responsibility. It is also responsible for preparing and submitting proposals for investment in the forest under its management, and for implementing investment activities. An MBSF is also in charge of monitoring changes in forest conditions. It has the right to carry out research and socio-cultural activities and ecotourism. Staffing for an MBSF is based mostly on the size and remoteness of the forest under its management. A minimum of five people in an MBSF are paid from the State budget.
- An MBPF is responsible for protecting, managing, developing and using an allocated area of protection forest according to the laws and regulations in force. It is in charge of preparing

annual work plans based on approved master plans. An MBPF is also responsible for receiving investment funds and subcontracting local people or organizations for the protection of its forest. It monitors changes in forest conditions according to Ministry of Agriculture and Rural Development (MARD) requirements. The rights of an MBPF include the organization of production and commercial activities in allocated forest. A minimum of seven MBPF staff members are on State salaries.

- An SFE is responsible to the State for the production forest area under its management and for the effectiveness of the production and commercial activities in this forest. It is also responsible for monitoring changes in forest conditions and carries out periodical inventories of its forest resources. Among the rights of an SFE are rights to use, purchase and process forest products as regulated by law, to use part of its allocated forest land for agricultural or fishery purposes, to commercialize the allocated forest in cooperation with other organizations or individuals, and to subcontract its allocated forest to other organizations, households or people for forestry, agriculture or fishery purposes.
- Other groups, including households and individuals⁷² managing production forest, have the right to State support through soft loans, extension, product processing and marketing. They are also entitled to collect timber and other forest products and to use part of the allocated forest for agricultural or fishery purposes. In return, they have to ensure that the allocated forest is used in accordance with existing laws and regulations. Forest owners also have to pay taxes as required by law, to report changes in the conditions of their allocated forests and to carry out periodical inventories of their forest resources.

MANAGEMENT ARRANGEMENTS

Most forests in Viet Nam are managed as private, State or common property, but some forest is managed through contracts.⁷³ Detailed data on the forest area under each tenure system are not available, and the discussion in this paper is based largely on aggregated forest data for 2004 at the national level, which were made available by FPD (Annex 7).

Private property: This arrangement includes forest management by individual households and State and joint venture enterprises (Table 2). Under this arrangement, forest is allocated to its owner for long-term (50 years) management. In most cases, forest owners under this arrangement are entitled to a legal land use certificate, called a Red Book Certificate (RBC), for the forest areas they are given.⁷⁴ By law, the RBC is the highest legal document certifying ownership of a piece of (forest) land. It represents legal recognition of all rights and responsibilities as regulated in current land law. RBC holders have the right to exchange, transfer, lease, inherit and mortgage their RBCs and to use their forest in joint production and commercial activities. Owners of forest under this arrangement are required to pay taxes.⁷⁵

State property: Forests under State property arrangement are managed at different levels by PCs, army units, MBPFs and MBSFs. Under this arrangement, forest is allocated to State bodies for an unspecified period. Where the forest falls into the special-use or protection category, forest owners are entitled to receive State budget for its management. An important difference between this management arrangement and the others is that owners of forest under this arrangement do not pay taxes on the forest they manage.

Common property: This arrangement is found in forests managed by collectives, including those that are legally recognized by the State. Forest under this arrangement is allocated to a group of individuals, each of whom has similar rights and responsibilities. Owner groups are entitled to have RBCs for the areas of forest they are allocated. In most cases, this forest management arrangement involves groups of households or a whole community/village, and legal recognition of this arrangement has recently emerged as an important issue in forest management in Viet Nam. At

⁷² By law, all individuals and households managing forest in Viet Nam have similar rights and responsibilities, regardless of ethnicity.

⁷³ The area of forest managed under contract is incorporated in the other three management arrangements.

⁷⁴ As the process of forest land allocation is still ongoing, not all legal owners of forest are yet in possession of RBCs.

⁷⁵ The amount of tax payable by different owner groups varies, and may be zero in certain cases.

present, only a small area of forest is under the common property arrangement, but its potential for the future is promising.

Forest contracting: The most popular form of forest contracting in Viet Nam is *khoan quan ly bao ve rung*, or protection and management of forest through contract. This management arrangement is formed when the owner of a State property forest signs a contract with an organization, household, group of households or village to protect that forest. Under this arrangement, rights of ownership of the forest remain with the contractor, and the contractee's rights are specified in the contract, usually on an annual basis and renewable on satisfactory performance by the contractee. The total cumulative contract time for one piece of forest is not more than five (consecutive) years. The contractee is entitled to a remuneration of 50 000 dong (D) per year per hectare of forest under contract.⁷⁶ This management arrangement is applied in the 5 Million Hectare Reforestation Programme (5MHRP) (Box 1).

TABLE 2
Summary of forest ownership categories

	Private property	State property	Common property	Forest contracting
Forest owner groups	Households, SFEs and joint ventures	PCs, army units, MBPFs and MBSFs	Collectives	Contractor is the owner
Total area of forest (ha)	5 954 806	6 067 421	284 632	2 261 966 [†]
Duration of ownership	Usually 50 years, renewable	Mostly unspecified	Usually 50 years, renewable	One year, renewable for up to five years total
Type of ownership paper	RBC	State decision	RBC	Contract

[†] Area under 5MHRP only.

BOX 1 Forest contracting under 5MHRP

5MHRP, also known as National Programme 661, was launched in 1998. One of its objectives is to increase forest cover from about 9 million ha (28 percent forest cover) to 14.3 million ha (43 percent forest cover) by 2010. Of the 5 million ha of forest to be established, 2 million ha are protection forest and 3 million ha production forest.

One of the measures to achieve this objective is to contract local people to protect forest. Between 1998 and 2005, 2.26 million ha of forest were contracted to local people for protection, costing about D100 billion per year. On average, the cost per hectare of forest protection under 5MHRP is lower than the planned D50 000, mainly because some provinces have stretched the allocated budget (by lowering the unit cost) to cover more target area.

Forest contracting is done by local 5MHRP implementing agencies (e.g., local State enterprises or management boards) through the following process:

- *Provision of information:* the 5MHRP implementing agency announces the forest contracting to local people, informing them of the location of the forest and the remuneration for contractees.
- *Collection of applications:* local people submit applications for contracts to the implementing agency (via the village head).
- *Screening of applications:* the implementing agency, in collaboration with the village leader, checks the applicant households' capability in forest protection (the availability of adult labourers is an important criterion).
- *Selection of households:* the implementing agency selects the households to which contracts for forest protection will be issued; it also assigns the size and location of each forest plot.
- *Signing contracts:* selected households visit the forest contracted to them and sign the protection contracts.

⁷⁶ At time of writing, D15 850 = US\$1.

- *Forest protection*: contractees are responsible for protecting the contracted forest area throughout the year.
- *Evaluation, payment and renewal of contracts*: at the end of the year, the implementing agency evaluates the contractees' forest protection and pays them their remuneration. Contractees can renew their contracts for the coming year.

The main source of funds for forest contracting is the national budget, but provincial budgets also contribute.† Other budgets, such as those from loans and international donors, are not used for this item.

† Between 1998 and 2005, the national budget contributed a total of D3 318 billion to 5MHRP. Contributions from provincial budgets were D247 billion. However, it is not known how much of the money from each source was spent on forest contracting.

FOREST PLANNING AND MONITORING SYSTEM

At present, there are no specific planning and monitoring systems for the different forest management arrangements in Viet Nam. Instead, the current systems of forest planning and monitoring apply to all types of forest tenure. The ultimate responsibility for forest planning and the monitoring of changes in forest conditions lies with MARD, which assigns individual tasks to the specific organizations under its disposal.

Following a Ministry of Forestry decision, forest planning is the task of the Forest Inventory and Planning Institute (FIPI) (MARD, 2003c). FIPI works with provincial authorities to prepare provincial forest plans; no comprehensive forest planning has been carried out for the whole country. Forest planning at the regional and provincial levels follows the socio-economic development planning cycle of ten years. Within each regional or provincial boundary, planning is carried out for each forest type (production, protection and special-use forest). Planning specifies the area of forest to be used for specific purposes (e.g., regeneration, plantation, exploration), based on the forest allocation, protection, plantation and exploration that can take place.

Forest monitoring is the responsibility of the Forest Protection Department (FPD),⁷⁷ which launched a test system for monitoring forest condition changes in two provinces in 2000. After successful implementation of this, the monitoring system was expanded to cover the whole country in 2001, and became officially functional in 2002.

FPD has the leading role in monitoring changes in forest conditions throughout the country. All forest owners are required to report changes in their forest, and forest organizations at the local level coordinate this information. FPD prepares special forms for this local-level data collection (Annex 6) and is developing a database management system for forest monitoring, which is available at the provincial level and in some districts. FPD is also introducing a Geographic Information System (GIS) into the forest monitoring system, using MapInfo software. Digital maps of commune units at 1: 10 000 scale will be used as the basis for forest resource monitoring.

Data on changes in forest conditions are updated from the bottom up. At the communal level, a forest protection official collects information on changes from all forest owners and passes this on to the District Forest Protection Office. District-level data are then passed on to the provincial FPD, which sends them to FPD in Hanoi for aggregation at the national level. Data on changes in forest conditions are published annually.

Although the monitoring of changes in forest conditions is a national programme, forest monitoring at the provincial level is funded from the province's budget. Where provincial authorities have not approved the forest monitoring programme, the budget to run it depends on

⁷⁷ In addition to FPD's monitoring activities, FIPI carries out a countrywide inventory of forest resources every five years. The results of the latest inventory were due to be published at the end of 2005.

the administration budget available for the provincial FPD. By the end of 2004, 43 out of 61 provinces with forest⁷⁸ had approved the provincial forest monitoring programme.

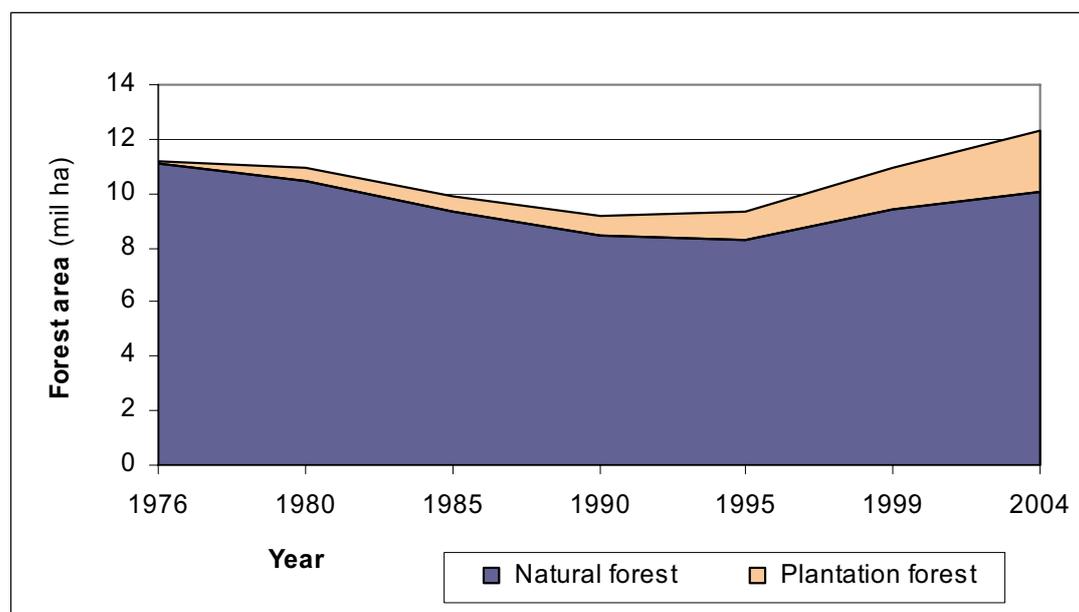
⁷⁸ Three provinces – Hung Yen, Vinh Long and Can Tho – have no forest cover and are not part of the forest monitoring system.

Changes and trends

After the end of the war with the United States, all forest resources in Viet Nam were managed by the State (Box 2 describes major milestones in the forest policy and legal framework). The Ministry of Forestry⁷⁹ was in charge of State forestry issues at the national level, departments of forestry were established for each province, and State forest organizations were also present at the district and, in some cases, commune levels (Nguyen *et al.*, 2001). Forest exploitation was a major focus of the forestry sector during this period, and SFEs were set up to be in charge of forest exploitation and plantation at the field level. In early 1989, 413 SFEs were managing 6.3 million ha of forest land in Viet Nam (MARD, 2001b; Nguyen *et al.*, 2001).

However, the area of natural forest declined quickly (Figure 2), and by 1986 almost half of the SFEs had run out of forest to exploit.⁸⁰ In addition, the State budget to run this system was cut, and many forest enterprises were faced with unemployment (MARD, 2001b; Nguyen *et al.*, 2001). Restructuring the SFE system became necessary and was initiated by the general framework for reform of SFEs. In September 1999, a Prime Minister's decision defined the specific purposes of and principles for restructuring SFEs, giving them the role of firms. These policies marked a major change in forest ownership in Viet Nam.

FIGURE 2
Changes in forest area, 1976 to 2004



Sources: FPD, 2004; Nguyen *et al.*, 2001.

At the same time, Viet Nam's forest policy changed by devolving forest management from the State. The 1991 Law on Forest Protection and Development stipulated that forest resources could be allocated to diverse land users, including organizations and individuals, for management, protection and commercialization. It also established a legal basis for setting up management boards for protection and special-use forests. In July 1993, a Land Law was passed specifying that land users were entitled to long-term, renewable land-use titles, or RBCs. In addition, the law officially

⁷⁹ In December 1995, the Ministry of Forestry and two other ministries merged to become MARD, which has been in charge of forestry issues at the national level ever since.

⁸⁰ Between 1976 and 1990, an estimated 190 000 ha of forest was lost every year across the country.

recognized that titleholders had five rights: to exchange, to transfer, to inherit, to mortgage, and to lease. These two laws provided the basic framework for various management arrangements other than State property.

During this period, various legal documents specified forest management arrangements as forest contracts and private property. In 1992, National Programme 327 was launched, according to which individual households were entitled to annual contracts for the protection, restoration and regeneration of forest areas. Households could also be allocated cultivable land for agroforestry or agricultural purposes. On 15 January 1994, the government issued Decree 02/CP, ushering in a new trend in the management of both forested and unforested forest land, including natural forests. According to this decree, the State can allocate forest land to organizations, households and individuals for long-term (50 years) use in accordance with the uses stipulated for each forest type – production, protection and special use.

In principle, Decree 02/CP provides a framework for transferring the management of forest land from the State to local organizations, households and individuals. On 4 January 1995, the government issued Decree 01/CP on the allocation of land through contracts for agriculture, forestry and aquaculture. According to this decree, individuals, households and groups of households are eligible for long-term contracts with State organizations. In July 1998, the Prime Minister issued decision 661/QD-TTg for implementation of 5MHRP, which emphasizes the allocation of forest land to organizations and individual households as a measure to realize its objectives.

Viet Nam's forest policies in the 1990s reveal a shift in the forestry sector's focus from exploitation to protection and afforestation (MARD, 1998; 1999). There is a move from State forestry to more people-oriented forestry, and private property is introduced as a new forest management arrangement. Rights to local forests are devolved to local inhabitants in some places, and people are more involved in forest management, mostly through protection contracts. The deforestation and degradation of forest under SFE management reduced the forest available for exploitation and led the State to recognize the inefficiency of this system. This, coupled with the important role of various forest owner groups in managing forest resources, was a driving force for changing the trend of forest policy during the 1980s and 1990s. Another important force was the successful reform of the agriculture sector; the increased agricultural output that resulted from contractual arrangements in agricultural land management, which were introduced in 1985, helped to stimulate changes in forest management.

By the late 1990s and early 2000s, another trend in forest management in Viet Nam was emerging – forest management by groups of households and whole communities/villages. The management of forests by local communities is not a new concept and is, in fact, traditional in many forest communities (Box 3; Le, 2001; Nguyen, Pham and Nguyen, 1999; Tran, 2004; Pham, 2004). Changes in forest policy during the 1990s created a general framework for the involvement of local people and communities in forest management. A national-level Community Forestry Working Group (CFWG) was set up in 1998 to advocate for community forestry. At present, it is preparing guidelines to facilitate the formation and operation of community forestry, but this is still in its early stages. International donors are also promoting this form of forest management through their projects in Viet Nam.⁸¹

As well as the forest they traditionally managed, local communities are now also becoming involved in the protection and management of provincial forests. By June 2001, local communities were protecting/managing almost 1.7 million ha of forest, of which 86 700 ha were traditional community forest (Pham, 2004). However, most of these community forests did not have RBCs. Dak Lak and some other provinces were pioneers in the devolution of forest management to local communities with RBCs. In 1998, the experimental forest devolution programme in Dak Lak was initiated, and by the end of 2000, 19 groups of households had been assigned natural forest areas with RBCs (Nguyen, 2005b: 97). In Son La, a forest devolution programme was started in 2000, and by the end of 2004 about 4 980 groups of households and 2 423 communities had been given 510 000 ha of forest with RBCs. Thua Thien Hue also started community forest management in 2000,

⁸¹ Examples are the Social Forestry Development Project Song Da in Son La and Lai Chau; the Mountain Rural Development Programme in Phu Tho, Tuyen Quang, Yen Bai, Ha Giang and Lao Cai; the Rural Development Project in Dak Lak; and the Sustainable Management of Natural Resources in Central Viet Nam.

and by the end of 2004, seven communities had been given about 4 500 ha of forest for management; issuance of RBCs to these communities is expected in the near future.

Changes in the legal framework during the 2000s also reflect a trend towards community management. In November 2003, a new Land Law was passed, which recognizes a community as a legal owner of land resources. The Law on Forest Protection and Development, which was passed in December 2004, is an important innovation for forest management in Viet Nam in that it specifies the allocation of forest to local communities for protection and management. In general, two important factors are responsible for the recognition of common property as a forest management arrangement. The first of these is the changing trend in forest policy throughout the world, which – encouraged and promoted by international donors – has changed the view that Viet Nam’s forest policy-makers have of local people’s role in forest management. The second factor is the trend that is being driven by experiences and experiments at the field level, which show policy-makers the strong interest of local communities in managing local forests, thus motivating the promotion of needs-based policies.

However, it is important to note that the 2004 Law on Forest Protection and Development only recognizes rights to use forest (i.e., to withdraw forest products) and does not indicate that a community has rights of ownership to the forest it has been allocated (Nguyen and Nguyen, 2005: 9). Article 5 of the law, which specifies the legal owners of forest, does not list communities as legal owners (Annex 3).

BOX 2

Major milestones in the policy and legal framework

July 1976: Ministry of Forestry established as a State organization responsible for forestry issues at the national level. Benchmark of nationalization of forest resources.

December 1986: Economic renovation policy launched after the Sixth National Congress of the Vietnamese Communist Party.

August 1991: Law on forest protection and development passed by the Eighth National Assembly, marking an effort to involve local people and different economic sectors in forest protection and development.

July 1993: Land law passed by the Ninth National Assembly, stipulating landowners’ rights to lease, exchange, inherit, mortgage and transfer land-use title.

November 1999: Government Decree 163/1999/ND-CP on land allocation for forestry purposes.

November 2003: Land Law passed by the Eleventh National Assembly, recognizing the legal status of a community as an owner of land resources.

December 2004: Law on Forest Protection and Development passed by Eleventh National Assembly, recognizing common property as a legal forest management arrangement.

Analysis of components of the tenure system

FOREST MANAGEMENT

In general, specific types of forest do not have specific management arrangements. Each type of forest appears to be managed under diverse property regimes. By law, special-use forests are under the direct responsibility of MARD, the Ministry of Culture and Information (for cultural, historical and environmental forest sites) and PCs at the provincial level. These bodies can allocate special-use forest to district-level MBSFs or PCs for management. When the special-use forest is more than 1 000 ha, an MBSF can be established to manage it. Other special-use forests can be managed by communal-level PCs or by households and individuals. At present, about 1.84 million ha are managed as 126 special-use forests, of which 27 are national parks, 60 nature conservation areas and 39 cultural, historical and environmental forest sites.⁸² Only eight national parks whose territories span more than one province are under the direct management of MARD; all other special-use forests are managed by provinces. No data are available about the management of special-use forest as private, common or other form of State property. Forest contract arrangements usually apply to protection and special-use forests, as State budget is available for the protection of only these forests.

An MBPF can be set up to manage a protection forest of more than 5 000 ha. Smaller protection forests are allocated to (local) organizations, individuals or households, and can be managed as common property in areas where the topographical conditions are complicated (e.g. on rocky mountains). Protection funds come from the provincial budget and, in recent years, 5MHRP, which provided the funds to protect 2.26 million ha of forest between 1998 and 2004.⁸³

Private property is the most common management arrangement for production forests, although SFEs, households and joint venture companies can also be allocated such forests and some are managed as State or common property. MBPFs and MBSFs can be allocated production forest, in addition to their protection or special-use forest, and production forest can also be under the management of PCs. Where the conditions are suitable for community management (e.g., where forests are important to the traditions or livelihoods of the community), production forest can be allocated to local communities for management.

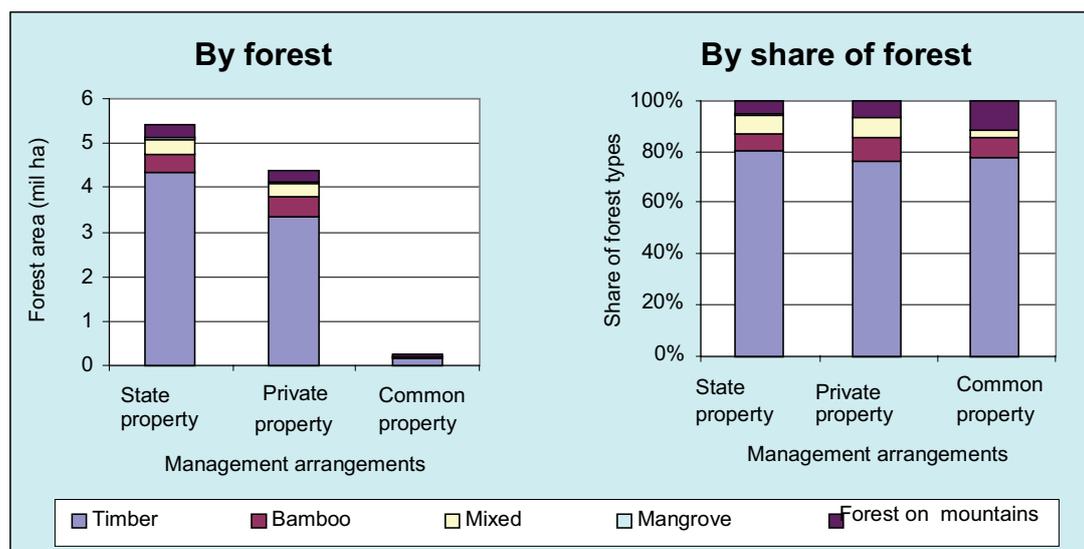
About 55.2 percent of timber forest is managed as State property, 42.4 percent as private property and 2.4 percent as common property⁸⁴ (left side of Figure 3). Areas of bamboo, mixed timber and bamboo and mountain forests are fairly evenly distributed between private and State property, while State management dominates mangrove forest, accounting for almost 70 percent of the total. For all types of forest, only modest areas are managed as common property. Each forest type seems to be fairly evenly distributed among the different management arrangements (right side of Figure 3). Across the three management arrangements, timber forests account for between 76 and 81 percent of total forest, bamboo forest for 6.6 to 9.5 percent and mangrove forest for less than 1 percent. Only mixed timber and bamboo forest and forest on mountains show wide variance. With mixed timber and bamboo forest accounting for only 2.4 percent of forest under common property, compared with 6.3 percent of State property and 7.6 percent of private property. Forest on mountains accounts for 5.5 and 6.5 percent, respectively, of the total forest area under State and private property, but for 11 percent of that under common property.

⁸² 95 of these forests have already been decreed and the remainder have been proposed.

⁸³ It is not clear how much of this area is protection and how much special-use forest.

⁸⁴ Separate data on forest under contract arrangement are not available; the area of such forest is included in the three arrangements mentioned.

FIGURE 3
Distribution of forest by management arrangement



Source: FPD, 2004.

By law, forest planning has to be based on the master land-use plan, existing forest protection and development plans, local socio-economic conditions and local people's demand for and capability in forest protection, use and plantation. It also has to follow the cycle of socio-economic development planning. However, at present about 10 percent of special-use forest and all protection forest has no forest management plan. One of the most important issues of the moment is increasing local participation in forest planning. Although bottom-up and participatory approaches have been introduced into forest land-use planning in Viet Nam (MARD, 2003c), the planning exercise is often carried out with limited or no involvement of local forest users/owners. Forest planning pays most attention to the forest itself, and the improvement of forest people's livelihoods is only a secondary issue. In the end, it is unclear whether the forest plan reliably represents all the different interests involved or only those of certain groups.

The system for monitoring changes in forest conditions requires cooperation from all forest owners, but many of them are reluctant to report the loss of forest area for fear of losing budget for protection or their forest title. The monitoring system has only a limited fund for cross-checking the data reported by forest owners, either through staff on the ground or through aerial photos and/or satellite images. In addition, the complexity of the situation is not taken fully into account. In cases such as in Dak Lak province, some SFEs, rather than reporting changes in their forest to district FPDs, report them directly to the Department of Agriculture and Rural Development, from which provincial FPDs then have to collect the data. This is because the forest areas of some SFEs span more than one district, and it is cumbersome to report monitoring information to all the district FPDs concerned. Another problem is funding in provinces where the forest monitoring programme has not been approved, and the budget for equipment (computers, plotters, scanners, etc.), training and personnel⁸⁵ is not available. This raises questions about the reliability of the monitoring system's outcomes, particularly in provinces where it has not been approved.

In forest management there are gaps between the *de jure* and the *de facto* rules. Unauthorized logging continues, even in protection and special-use forest areas. Nguyen (2005b) and Tran (2004) indicate that under both State and private property regimes in Dak Lak, local farmers retain their traditional uses of local forest, particularly with regard to the use of forest land for cultivation (Box 3). Similar situations are found in other provinces, such as Son La, Gia Lai and Thua Thien Hue. Production forest is most susceptible to overlapping (*de facto*) management arrangements, although

⁸⁵ It is estimated that there are more than 1 000 FPD staff members involved in forest monitoring: five at the national level, 122 at the provincial level (two in each province with forest) and 900 at the district level (two in each district).

it is rare that an informal arrangement dominates over a formal one. One of the main causes of such overlaps is a lack of attention to the local traditions and legitimate interests of different stakeholders, particularly weak and poor groups, in the implementation of forest policies at the local level. Another contributing factor is the lack or absence of mechanisms to monitor policy implementation. Some policies are difficult to comprehend and realize in practice, which leads to confused implementation.

Access to forest benefits for local (farmer) owners also needs to be addressed. By law, all forest owners are entitled to the benefits from their forest, but in practice most individual owners are disadvantaged by organizational owners (both State and private) in gaining access to forest benefits. Individual households owning forest find it difficult to acquire legal logging permits, so they collect timber without permits (Nguyen, 2005b). Similarly, legal permission to use forest land for cultivation is also difficult to obtain, and most individual forest owners use forest land for agricultural purposes without a legal permit (Nguyen, 2005b). One of the reasons for this is unclear policy and guidance on the procedures to be followed in order to obtain a forest use permit. In the end, the promised benefits appear too small to provide the incentive for farmer forest owners to accept the attached responsibilities for forest management.

BOX 3

Traditional forest ownership in an Ede village

As in many other Ede villages in the area, the inhabitants of Cham B have had close links with the nearby forest for generations. Despite the village's relocation and the State property claim to the forest, Cham B villagers still maintain a traditional system of forest resource ownership.

There is an area of forest that is known locally to belong to Cham B, which is where the ancestors of Cham B's present inhabitants used to live and farm. Cham B villagers' access to arable land in this forest area is regulated by local institutions. Farmers whose parents used to farm in the area can make a claim to the land. Traditionally, when someone first cleared a patch of forest for cultivation, (s)he would plant several mango trees to mark ownership. Now that the land has been left fallow, the mango tree has become a symbol of landownership that all villagers recognize.

Local people also have a traditional way of claiming ownership to timber trees, which is based on a "first-see, first-own" basis. Households set their claims to timber trees by making clear and visible marks on the tree trunks. A forest tree with a mark on its trunk is "owned", and only the person who made the mark has the right to take the tree home.

Violation is sanctioned by traditional rules, with village heads (appointed by the State) deciding the penalties. The village head is also responsible for settling disputes regarding traditional law.

Source: Fieldwork by author in 2002 (see also Nguyen, 2005b).

LIVELIHOODS

Forest is important for rural communities in upland areas of Viet Nam. Forest resources can provide the basis for rural livelihoods, and can be an important source of income for local people. The most important uses of forest resources for Viet Nam's rural upland population include the use of forest land for cultivation purposes, the collection of timber for home use (e.g., housing and tools) and the collection of non-timber forest products (NTFPs) and game animals for food. "Some rural people have derived great benefit from the elimination of forest cover through increased access to arable land and through conversion of timber and other forest products into income and capital" (Sunderlin and Huynh, 2005: 4).

Crop production on forest land has been a major source of livelihoods for forest people. Although swidden farming is discouraged in forest areas,⁸⁶ indigenous upland farmers continue to practise traditional farming systems. A patch of forest is cleared for cultivation for a few years

⁸⁶ Permanent farming has been promoted in upland areas of Viet Nam since 1968, with Decree 38/CP of the Government Council on fixed cultivation and sedentarization.

(depending on the fertility of the soil and the pressure on land use in the area) and then left fallow to regain its fertility. Cultivation on swidden fields in forest can produce important quantities of food for farm households. Do (1994) estimates that 9 million Vietnamese ethnic minorities practise swidden cultivation, and for one-third of these people it is their main source of livelihood. Nguyen (2005b) indicates that in Dak Lak province, swidden fields in forest that has been allocated to a village can produce up to 70 percent of local household crop production, in value terms.

NTFPs are the second most important livelihood source for local people, both rich and poor, in the remote uplands of Viet Nam. The poor people living in or near natural forest areas rely on a wide range of NTFPs for food, fodder, medicines and other daily needs (Sunderlin and Huynh, 2005: 32). Pham (2003) indicates that a rural community can gather 194 different products from nearby forest, about 80 of which are collected frequently. The most important NTFPs are fuels (about 50 percent of the total value of NTFPs), bamboo shoots, medicinal herbs and forest leaves. Almost 8 million members of ethnic minorities in Viet Nam collect NTFPs (Sunderlin and Huynh, 2005), and it is estimated that NTFPs account for 15 to 25 percent of the household income of those living in forest areas. Most of the NTFPs collected are used domestically, but some are sold, particularly medicinal herbs, bamboo and rattans.

Timber products are of only limited importance to people's livelihoods because it is difficult to convert timber into cash. Timber is most important to people's livelihoods in forest plantation areas, particularly where pulp material abounds (e.g., six provinces in the production area of Bai Bang Paper Mills in the Northern Upland Region). The commercial logging of natural forest is not regarded as a means of livelihood for local populations (Nguyen *et al.*, 2001). Nevertheless, the emerging trend of forest devolution is increasing the potential for local populations to benefit from small-scale timber logging. By law, forest owners are entitled to all the harvest from the first production cycle of plantation forests and to part of the incremental volume of timber from natural forests. According to Decision 178/2001/QD-TTg, the owner of a forest that was of medium quality at the time of allocation (i.e., forest with a timber volume greater than 100 m³/ha) is entitled to 2 percent of the total value⁸⁷ from each year of management. For poor-quality forest, 100 percent of the harvest goes to the owner. Some provinces have used this decision as the basis for benefit calculation, but have modified it slightly. Forest owners in Thua Thien Hue are entitled to between 10 and 50 percent of the harvest, depending on the growth rate of the allocated forest. In Dak Lak, forest owners are entitled to 6 percent of the total value of the harvest every year of management, while in Son La they are entitled to between 30 and 95 percent, depending on the number of years they have managed the forest (from a minimum of five years), the type of forest (production or protection) and the status of the forest at the time of allocation. (Box 8 gives an example of timber benefits for local forest owners.)

The environmental impacts of forest management also influence the livelihoods of local people, mostly through protecting water resources, improving soil conditions, mitigating natural calamities, and providing payments for environmental services (PES). In recent years, large-scale natural calamities such as floods and drought have occurred increasingly throughout the country, directly influencing the livelihoods of both forest people in the uplands and lowlanders. However, not everybody perceives the importance of environmental services, and many people associate forest management with local livelihoods only (Le, Ziegler and Grever, 2002). Forest management can have an impact on local livelihoods through payment schemes for the foregone use of forest resources. In Viet Nam, such a scheme is applied through the forest protection contract. So far, two programmes related to PES have been implemented: the completed 327 Programme and its follow-up 556 Programme; and the ongoing 5MHRP (Box 1). Under both programmes, participating farmers are paid to protect forest and keep it unused. The gross rate for protecting forest is D50 000/ha per year, and farmers receive a net income of D30 000 to D35 000/ha per year.⁸⁸ Between 1998 and 2005, 5MHRP spent almost D100 billion per year on forest protection contracts (Nguyen, 2005a).

⁸⁷ It is not clear if this 2 percent refers to the incremental volume of timber or the total volume of timber at the time of harvest.

⁸⁸ Some provinces have reduced this rate in order to expand the area under protection (Nguyen, 2005a).

CAPACITIES

Over the last three decades the quality and quantity of forest under State management declined. This has contributed to changing trends in forest ownership over the last decade. The management of forest as State property focuses on protection and special-use forest, while most production forests are managed as private or common property.

Financial resources for the management of special-use forest areas come from the provincial (in most cases) or national government (for the eight national parks under MARD), and are more abundant than those for other types of forest. Emerton *et al.* (2003) estimate that US\$12/ha per year is available for special-use forest under the responsibility of MARD, and US\$6.5 for areas under provincial responsibility, but the annual budget available varies, depending on the financial situation of each province. For most of the forest under provincial responsibility, the budget available is barely enough to cover the modest operation and maintenance costs, which makes it difficult to manage the forest in accordance with requirements. Additional financial resources are available from national programmes (such as 5MHRP), tourist activities and the site-specific projects of international donors (Emerton *et al.*, 2003; ICEM, 2003). The national government and international organizations, including BirdLife International, Fauna and Flora International (FFI), the World Conservation Union (IUCN) and the World Wide Fund for Nature (WWF), are identifying and expanding special-use forest areas and strengthening the management capacity of these forests (BirdLife International, 2004). In recent years, the legal framework for the management of special-use forest has been strengthened.

The owners of protection forests (including MBPFs, SFEs, households and communities) are entitled to annual State budget for forest protection, but this is limited and usually has to be stretched to cover large areas. The provinces provide additional financial resources, which vary from province to province because of differences in their financial statuses. National programmes are another source of financing, and sometimes forest resources can be used to provide supplementary funds for the management of protection forest. The strengthening of capacity to manage protection forest is specified in Decision 08/QD-TTg, the 2003 Land Law and the 2004 Law on Forest Protection and Development.

Production forest owners are supposed to be self-financing through the appropriate use of forest resources. At present, SFEs are the largest owners of production forest, and the forest under their management is often of higher quality than that managed by other owners. By the end of 2002, there were 368 SFEs, 40 of which were under the direct control of the central authorities and 328 under local (provincial) authorities. There were about 26 800 staff members in the SFE system, managing approximately 5 million ha of natural forests, or 50.7 percent of the total natural forest area of the country (MARD, 2003a: 57). However, the performance of SFEs could be improved. Some enterprises have not delineated clear boundaries for their forests. Others do not link responsible management to the development of forest resources. Most SFEs do not use all of the forest allocated to them, and very few manage their forests in a sustainable way. Various policy attempts have been made to strengthen SFEs' capacity for managing forest in accordance with existing regulations. However, four years after Decision 187/199/QD-TTg on the restructuring of SFEs, little progress has been made in implementing it.

Individual households are the second largest owners of production forest. By September 2002, about 1.55 million ha of forest had been given with RBCs to households (MARD, 2003c).⁸⁹ Although households have only recently become legal forest owners through the holding of forest RBCs, they have proved to be more effective than SFEs in managing their forests. Some forest under household ownership has declined, but far less has been lost than under SFE management (Tran, Nguyen and Sikor, 2004). Local households are obtaining increasing benefits from the forest (Nguyen, 2005b), but the data regarding this have not been differentiated between forest owners and non-owners, so it is not clear that owners benefit more than non-owners. The State has promulgated several legal documents to strengthen households' capacity to manage forest through providing extension support, soft loans, etc. However, these policy ideas have not been fully implemented.

⁸⁹ FPD (2004) reports that 2.87 million ha of forest (of which 2 million ha was natural forest) was being managed by individual households in December 2004, but provides no data on RBCs.

The management of forest as common property has been formally recognized recently, and in only a few test cases has a community been given an RBC for the forest under its management. Although no comprehensive study of the effectiveness of community forest management is available, the initial results of studies conducted by CFWG show that many communities have organized forest protection work without support from the State. In the cases under review (which include those documented in literature and others observed by or reported to the author), the forest resources under community management seem generally to be well protected, and there have been few cases of unauthorized appropriation of forest resources. Dak Lak, a Jarai village that applied for a forest allocation with RBC, has established its own regulations for forest management and organized a forest patrol. This village has even succeeded in preventing outsiders from logging timber in its forest (Dang Thanh Liem, Dak Lak Rural Development Project, personal communication). (Box 8 gives another example from Thua Thien.) In some cases, however, communities have difficulty financing their forest protection activities (Nguyen, Pham and Nguyen, 1999; Nguyen and Vu, 2002; Pham, 2004).

The capacity to protect forest under contractual arrangements largely depends on the budget available from the State. At present, 5MHRP is the only source of funding for this forest management arrangement, which it obtains from the State budget.⁹⁰ Local people usually accept the rates that contractors offer for protecting forest, even when these are reduced in order to put larger areas of forest under protection. Although local communities sometimes protect forest without immediate cash remuneration (Pham, 2004), a common problem in most parts of Viet Nam is that when funding stops, there is no capacity to protect forest, which becomes vulnerable to uncontrolled appropriation. To solve this problem, it has been proposed that the management rights of forest be devolved to the contractee at the end of the contract period.

POLICIES AND LEGISLATION

Over the last two and a half decades, various legal documents have been issued in an effort to improve owners' management of specific forests. There are now more than 100 laws and regulations relating to forest and forest management at different levels (Annex 4), but no legal document regulates the implementation of these. The following procedures are based on research by MARD's Legislation Division (MARD, 2003b):

- Step 1: Identification of the entities that are subject to the legal document, based on the document's contents and scope.
- Step 2: Preparation of the legal document (prior to its implementation),
- Step 3: Preparation of an implementation plan.
- Step 4: Preparation of the legal document's implementation (including training, informing potential beneficiaries and other awareness raising activities).
- Step 5: Evaluation of implementation of the legal document.

This study found that different forest owners have different capacities for understanding laws and regulations relating to forest management, rights and responsibilities. Organizational forest owners (such as SFEs, MBPFs and MBSFs) seem to understand them better than farmer owners (rural households). Level of understanding also varies according to level of education and access to information. In a programme on forest land allocation or forest contracting with local people, at least one local-level meeting should be organized to inform the programme's potential beneficiaries about the related policies, their rights and responsibilities. Nevertheless, this is often done in a rather "academic" manner, and the degree to which people have understood the discussions at the meeting is not evaluated. As a result, few households have a clear idea of their own rights and responsibilities (Nguyen and Le, 2002; Tran, Nguyen and Sikor, 2004), not to mention those of the State

⁹⁰ Funding for 5MHRP forest activities also comes from other sources such as international donors and loans, but funding from these sources is not used for forest protection contracts.

organizations concerned. Local leaders and intellectuals are among those who understand policies better.

Different levels of understanding of policies, rights and responsibilities result in different perceptions of the policies. Some villagers in Dak Lak, for example, are indifferent to RBCs because they perceive forest RBCs as no more than pieces of paper. Other people consider their ownership of forest as being temporary, and think that State enterprises can take forest back from them at any time. Some knowledgeable farmers understand their own rights and responsibilities as owners of forest and try to follow and make use of these, for example, by collecting timber for house construction in Dak Lak (Nguyen, 2005b).

Understanding and observation of legal regulations by non-owners of forests, particularly in forest devolution programmes, are also important. Experiences in Viet Nam show that most information and training on policies are directed to the future beneficiaries of programmes, and little attention is given to other affected people. In forest devolution programmes, for example, most policy information meetings are organized for future forest owners, while non-participating households from inside or outside the village have few opportunities to find out about the policies and their own rights and responsibilities. This results in many people being surprised when a forest area from which they could collect fuelwood a month previously is no longer accessible to them because it has become the property of a specific household or community.

TENURE RIGHTS, TENURE SECURITY AND ACCESS

Better rights to forest resources can lead to increased opportunities to benefit from those resources. However, improved rights do not automatically enable local households to procure better incomes and more secure food production from the forest. Rights are important, but they need to be accompanied by ability and/or access⁹¹ if they are to have positive effects on people's livelihoods. Rights are necessary conditions, and access is the sufficient condition for local populations to benefit from forest resources. Nguyen (2005b), for example, found that the improved rights to forest resources brought about by forest devolution in Dak Lak had positive impacts only on households with sufficient productive resources, particularly labour and capital. Poor and disadvantaged households who lacked these resources obtained few of the benefits of the new situation, but suffered its consequences. Access is important in obtaining forest benefits and improving rural livelihoods, but (legal) rights are also needed in order to sustain income from forests. For example, illegal loggers are able to fell and collect timber from the forest but, without the legal rights to do so, their actions should be controlled and their benefits from the forest will not be sustainable.

In addition, rights to forest products need to be legally secure, or at least seen as such by the right holders, if local livelihoods are to be improved. Without secure rights, it is unlikely that local people will invest their resources in the forest for long-term benefits. In general, forest owners have legal rights, which are endowed by the State, and informal rights, which are defined and recognized locally. Under private and common property, forest owners have rights to forest for the term of the forest RBC, which is usually 50 years. Legal rights are protected by law and considered to be legally secure. It is important to note that under both private and common property regimes, local forest owners feel more secure about their tenure rights when their legal rights can be realized in practice (e.g., when forest owners can benefit from their forest) and are in line with traditional rights. More important, where local forest owners have adequate legal back-up to realize their new rights, the rights may be secure enough to improve livelihoods. In a study of forest management by a Mngong community in Dak Lak, Vuong (2003) indicates that the local community invested its labour in tending and protecting the forest because it was clear of its own rights and benefits. In addition, local people were also supported by local forest authorities in realizing their rights and responsibilities and by a development project in enrichment planting and thinning techniques.

Security of tenure rights for organizational forest owners under private or State property arrangements are sometimes challenged. Legal rights to forests are vested in the organizations that manage the forest, and local people are expected to refrain from appropriating forest resources. However, local people continue to use forest products when their livelihoods depend on them,

⁹¹ The meaning of the term "access" is defined as "the capacity of some actors to affect the practices and ideas of others" (Ribot and Peluso, 2003: 155).

claiming their informal rights to these products. Tran (2004) and Nguyen (2005b) suggest that the security of State forest tenure depends on the capacity of the organization in charge of forest management and the existing pressure on the forest resources. In addition, the extent to which State regulations conform with local institutions on forest management also influences the security of rights under State property.

Assessment of the effectiveness of different forest tenure systems

It is hard to say which system of forest tenure contributes most to sustainable forest management and poverty alleviation for two reasons: (1) there is a wide range of different biophysical, socio-economic, cultural and climatic conditions across the country, and the performance of forest tenure has to be considered in these specific circumstances – a system may work well in one situation but fail in others; and (2) it is often difficult to achieve sustainable forest management and poverty alleviation at the same time, as the two do not always go together. This chapter focuses on situations in which a specific tenure arrangement works and contributes to sustainable forest management and poverty alleviation.

FIELD EXPERIENCES

Under State management, an organization's most important goal is the protection of the forest under its responsibility for environmental conservation and/or biodiversity purposes. Sustainable forest management is therefore considered more important than poverty alleviation. MBSFs and MBPFs, for example, have to protect the area of forest allocated to them against the unauthorized use of forest products and to develop forest resources (Box 4). The ability of these bodies to fulfil such tasks depends largely on the budget available, but annual State budgets are enough to pay only staff salaries and cover modest operation costs, so most management boards have to rely on supplementary budgets from national, local or international projects to cover the costs of their activities. Centrally managed management boards often have more capital resources for their activities, so the forests under their management are likely to be well protected. The main reason for these additional resources is that these management boards are in charge of complex and/or important forest areas (such as forests whose territories span more than one province, or protection forests for important works), and therefore their staff need high incentives to carry out their tasks.

The improvement of local livelihoods is a secondary objective in State forest management. In most cases, forest livelihood activities are limited to non-permanent jobs (e.g., tree planting and tending or forest protection through contracts) and the limited collection of forest products. The State organizations managing forest as State property very rarely include poverty alleviation among their main goals or activities.

Box 4 illustrates the example of Bach Ma National Park in Thua Thien Hue province, where the management board's most important task is to protect the area of forest under its responsibility for biodiversity, conservation and environmental purposes. The importance of protecting this forest makes it an attractive investment for national and provincial government and international donors. However, local people suffer from the strict protection policies applied in the park, despite their awareness of the environmental importance of these policies. People's use and collection of forest resources from the park hamper the environmental goals of the park's protection work, but may be justified by subsistence needs and lack of alternatives.

BOX 4**Forest conservation and local livelihoods in Bach Ma National Park, Thua Thien Hue**

Bach Ma National Park is situated 40 km southeast of Hue city at latitude 16°05' to 16°15' N and longitude 107°43' to 107°53' E. The park covers a total area of about 43 331 ha, of which 22 031 ha is the core area and 21 300 ha the buffer zone. Bach Ma National Park is identified in Viet Nam's Biodiversity Action Plan as one of the last remaining primary forests, and should receive the highest priority for protection because of its biodiversity value. The park includes about 19 percent of the flora and half of the fauna species in Viet Nam. It was officially created in 1991 with the purpose of conserving the only green transect left in Viet Nam, which stretches from the South China Sea to the border with Lao People's Democratic Republic. The core area of the park is managed by MARD, and the buffer zone area by Thua Thien Hue province. The park has a management board with about 68 staff, 40 of whom are forest rangers.

There are various investment projects related to the park. As well as national and provincial programmes, donor-funded projects have also been implemented, including a FAO project on forest land allocation, a social forestry project implemented by HELVETAS and Hue University, a rural development project implemented by Nordic Assistance to Viet Nam, a project to support afforestation and train technicians implemented by Nord Pas de Calais, a rural development project implemented by World Vision, a buffer zone socio-economic survey implemented by IUCN, and the Participatory Development of Bach Ma National Park Project implemented by WWF. In addition, Tropenbos International has six small projects in the park.

It is estimated that 70 000 people in more than 12 000 households live in the park. Only 65 households are in the core area, and the rest are in the buffer zone. The main source of local livelihoods is agriculture, and about 40 percent of the local households are classified as poor. Generally, people in the buffer zone of the park are positive towards conservation, probably because the severe flood of 1999 has raised awareness of the necessity to conserve forest. In addition, local households are generally aware of government regulations regarding the collection of biological materials from the park. Nevertheless, the area provides difficult conditions in which to achieve high agricultural output and, with no alternatives to agriculture, many households continue to use and commercialize illegal forest products. Those who invade and clear forest or collect forest products risk punishments ranging from confiscation of tools and the material collected for smaller violations to heavy fines or imprisonment for the extraction of timber, high-value plants and animals at risk of endangerment.

Sources: BirdLife International, 2004; Le, Ziegler and Grever, 2002; Tran Huu Nghi, Programme Team Leader of Tropenbos International Viet Nam, personal communication.

In its original form, forest contracting has the potential not only to improve forest resources but also to contribute to poverty alleviation. With the announced rate of D50 000/ha per year, a household protecting 30 ha can earn as much as D1.5 million a year, or D125 000 per month, which is a significant amount for poor upland households whose annual incomes are no more than D1 million per capita. In addition, the collection of NTFPs under the forest canopy can provide extra income or materials for home consumption. Nevertheless, poor households are not often selected as forest contractees because they do not have the necessary resource (labour) for the extra work demanded by the contract. In addition, there is confusion regarding ownership of the protected forest. Local people are not clear about their rights to the forest, particularly about their possibilities for benefiting from the forest in the future. As a result, local people become dependent on State funds, protecting the forest when these are available and not when they are not.

Box 5 assesses the effects of forest contracting arrangements under two nation programmes: Programme 327 and 5MHRP. In general, forest contracting has helped to increase the national forest cover, but its contribution to poverty alleviation is not clear.

BOX 5

Assessment of forest contracting

So far, two national programmes (Programme 327 and 5MHRP) have been involved in forest contracting. In both, local people receive cash payments for protecting and regenerating forests, and are allowed to collect limited NTFPs and other forest products. The following are the findings of a first assessment of forest contracting in these two programmes.

Strengths

- Generation of significant income for some participating households through cash payments and collection of NTFPs from the contracted forest.
- Contribution to the protection of forest resources and increased forest cover.

Weaknesses

- Government control and restrictions on forest use have undermined the contracts in some provinces.
- Low returns to participants and dependence on the government, with contract payments of D50 000/ha per year being insufficient to discourage local households from exploiting forest resources. Local households are not clear who are the recipients of future benefits from the forests.
- Inadequate funding: Protection of large areas of forest requires a substantial budget. Lack of sufficient protection funds to ensure the equal participation of all ethnic households may cause dissatisfaction among communities.
- Corruption and bad practices are resulting in budgets earmarked for protection being spent for other purposes. It is estimated that more than 50 percent of the total funds for Programme 327 were used for other purposes.
- Funding comes only from the State, and lowland people are not involved in paying for forest protection.
- Ambiguity and complexity of the programme are creating a lack of understanding of the rights and obligations stated in contracts. In addition, participating households often do not receive any official documents and are uncertain about the boundaries of their contracted forest.

Sources: 5MHRP Partnership Secretariat, 2001; Nguyen, 2005a; Sunderlin and Huynh, 2005.

Under private property, forest owners have obligations that are attached to the allocated forest. They are required to use their forest effectively and to maintain and develop its resources. These requirements apply to both organizational and individual forest owners and can be categorized into three major groups of activities: protection of forest against unauthorized use; plantation of trees where needed; and utilization of forest to maximize profits. SFEs, for example, are assigned by the State to protect and commercialize their allocated forests. Owing to a partial logging ban and, in many cases, low-quality forest, SFEs' most important activity is protecting forest for timber trees to grow. This includes using forest patrols to prevent people from unauthorized logging or harming the timber, and informing and educating people about their important responsibilities in protecting local forests. Where the pressure on forest resources is high, forest owners pay even more attention to protection (Box 6). Few managing boards and SFEs pay much attention to poverty alleviation; the most that they can do to help local people improve their livelihoods is to provide forestry jobs and permission to use NTFPs. Overlapping claims to forest resources are not rare (Box 3), and local people often use forest under State enterprise ownership for their own livelihoods, particularly where there is market demand for forest products such as timber and NTFPs (Box 6) or where the pressure on land is high (Nguyen, 2005b).

BOX 6**Forest protection in Ea H'leo State Forest Enterprise, Dak Lak province**

Ea H'leo SFE was set up in 1992, based on a forest resource exploitation brigade. The SFE has three main tasks: to manage, protect and develop the allocated forest resources; to carry out agricultural and forest production and commercialization; and to harvest and process forest products. It was allocated 32 700 ha of forest – 22 500 ha of which is natural forest – in three communes as fixed assets. Of this area, 12 700 ha is protection forest and 20 000 ha production forest. Ea H'leo SFE has 24 staff members.

Forest protection is considered to be the most important activity of Ea H'leo SFE. Since its establishment, the enterprise has established three branch offices in three communes, each of which has a staff of four. The main task of the branch offices is to detect and penalize the illegal use of forest resources – forest land, timber and NTFPs. In recent years, the expansion of pepper cultivation has led to increasing demands for timber poles, resulting in high pressure on timber collection from the forest. The forest protection task of branch offices has therefore been strengthened, and their daily activities focus on patrolling the forest under their responsibility and monitoring the use of local forest resources. In addition, local SFE staff help local villages to develop village forest protection regulations and evaluate the implementation of these. In cooperation with communal authorities, the SFE carries out awareness raising and information activities on the importance of forest protection. It has drawn up forest protection contracts with 65 households to protect 5 000 ha of forest under Programme 327.

Other activities performed by Ea H'leo SFE include exploitation and processing of round logs, enrichment of natural forest, plantation of protection forest (through contracts with local people) and plantation and tending of tree crops (rubber and coffee).

Sources: Lam Truong Ea H'leo, 2002; Nguyen, 2005b; Ea H'leo SFE leadership and staff, personal communications.

The balance between sustainable forest management and poverty alleviation can be better observed in forest management under individual household ownership. Recent experimental forest devolution programmes have granted individual households natural forest with long-term RBCs. Similar to organizational owners, the individual owners of forest under private property have to protect their allocated forest against unauthorized appropriation of resources, plant forest where needed, and use the forest for their own benefit. Individual owners have followed diverse courses of action since forest devolution; some rush to obtain material benefits from the forest (Nguyen, 2005b), while others concentrate more on fulfilling their responsibilities. Box 7 gives an example of forest management by individual households in two districts of Quang Binh province where, despite technical problems during the devolution process, people have developed the forest resources on their allocated land. Forest plantation takes time (at least five to seven years for fast-growing trees), so local people's investment in tree planting after devolution implies their certainty of tenure security. Forest devolution has given people a chance to improve their livelihoods in the long term, while improving forest conditions. Other factors that have contributed to this outcome include a buoyant market for pulp materials and the province's strategy of subsidizing seedlings for forest plantations.

BOX 7**Forest management by individual households in Quang Binh province**

Between 1998 and 2002, with support from the Integrated Food Security Project, more than 40 000 ha of forest land was allocated to more than 11 000 households in 16 communes of the Minh Hoa and Tuyen Hoa districts of Quang Binh province. Forest devolution at such a large scale was very progressive at the time, considering the political uncertainty about the allocation of forest land to local stakeholders. Forest land allocations were distributed equally among the individual households, which received narrow strips of forest stretching from the foothills to mountain ridges; in some cases, allocations were split into two or three smaller areas at different locations. However, the consequences for forest management were not taken into account during the forest devolution process, and most local households can identify the boundaries of allocated barren land, but not allocated forest area.

Very few conflicts have broken out since the allocation of forest land, but there is an inherent potential for conflict concerning specific forest land allocations. At present, there are no conflicts about allocated natural forest because of the open-access situation that resulted from forest owners' inability to identify the boundaries of their forests. Even when the boundaries of individual plots of natural forest can be distinguished, households are unlikely to have sufficient resources to manage and protect their forests individually.

Local households of all economic statuses have planted forest trees on the allocated barren and shrubland. Major plantation species are Acacia (including *A. mangium* and *A. auriculiformis*), Cinnamon and Eucalyptus. Acacia seedlings were provided free of charge by a provincial programme to assist local communities in establishing short-rotation plantations for livelihood improvement. However, no technical training was offered, resulting in poor-quality plantations. Eucalyptus seedlings were purchased at low prices from nurseries in other districts. Timber from the plantations can be sold to the provincial paper factory. The tree planting induced a high demand for seedlings, despite the province's provision of Acacia seedlings, and some households have set up their own nurseries, producing mostly Acacia and Eucalyptus. Although the seedlings from these private nurseries are of low quality, the nursery owners are still able to sell them to local households.

Sources: Roth, 2005; Marianne Meijboom and Vu Van Manh, the Sustainable Management of Natural Resources in Central Viet Nam (SMNR-CV), personal communications.

Of the tenure systems under review, the management of forest as common property appears to address poverty alleviation most effectively. Although this tenure system has only recently been formally recognized by law, trials and experiments have taken place in several parts of the country and common property sometimes dominates over private property for forest management and poverty alleviation. In Dak Lak, for example, the provincial forest devolution programme gave 139 ha of forest to nine households in a village of 108 households. Less than two years later the results of an assessment showed that community management may be a more appropriate type of forest management in this village (Pham *et al.*, 2003), and the village proposed managing the forest as common property. The proposal was approved and the village was given a new patch of forest. Village regulations for forest management were then established with the agreement of all members. The villagers also set up four forest protection teams, each divided into three groups for patrolling and monitoring the use of the forest. The protection teams have been able to exclude unauthorized loggers (16 cases) and confiscate logging materials. The village has allowed its members to collect timber to fence gardens (Huynh, 2004; Dang Thanh Liem, Rural Development Project, Dak Lak, personal communication).

Another example of managing forest as common property is described in Box 8. A village was given ownership of a forest under an experimental programme in 2000 and established village regulations on forest protection and development. These specify the rights and responsibilities of members, paying particular attention to poor and disadvantaged people in the village. Five years after this devolution, the villagers are able to protect their allocated forest while benefiting from it.

BOX 8

Managing forest as common property in Thuy Yen Thuong, Thue Thien Hue province

In 2000, with support from the PROFOR project of MARD and Thua Thien-Hue Forest Development Department, an agreement was made for the experimental management of a natural forest area by Thuy Yen Thuong village in Loc Thuy commune.

The village is located near the forest, 13 km southeast of the centre of Phu Loc district, with good transportation and communication systems. At the time the agreement was made, the village had 252 households with 1 860 inhabitants, 856 of whom were labourers (97 percent in the agriculture sector). Under the project, a village management board was set up consisting of the village chief and two vice chiefs, who are trusted and respected by fellow villagers.

In the past, villagers were members of an agriculture cooperative that ran tourist activities along Tien River with other organizations. This business was promising and helped to raise local people's awareness of the importance of forest protection. Local people also planted forest to meet their own timber and fuelwood needs, and by 2000 the village had more than 250 ha of plantations. However, many local people from within and outside the village were still trying to make a living from unauthorized logging in the local forest. In 1998, Thuy An Forest Protection Unit was set up near the village, and staff of this unit helped villagers with technical forestry problems related to nursery, tree planting, the tending of plantations, etc. Villagers became better aware of the environmental effects of deforestation after a big flood in 1999.

The village was selected as a test case for community forest management with the objectives of eliminating hunger, alleviating poverty and enabling the local community to enrich itself from the forest. The forest to which the management agreement applied was the best-quality section of an area classified as essential watershed protection forest located in a remote area with difficult access. It covered a total area of 405 ha of medium- to rich-quality forest with an average timber volume of 76 m³ per hectare. The village was to protect the forest for a test period of three years after which – as long as its performance was satisfactory – it would be given the forest along with an RBC (for details of the agreement, see Vo, 2000: 3–8). See Annex 2 for the village regulations.

The trial was successful. Both the provincial FPD and the Forest Department evaluated the village's performance in managing the forest as very good, and an official evaluation of forest land allocation was planned for the second half of 2005. The forest has been well protected, and local people have benefited from it. By mid-2005, a plan to harvest 90 m³ of timber from the allocated forest had been approved and logging activities were put in progress.

Sources: Phu Loc Forest Protection Unit, 2000; Vo, 2000; Tran Huu Banh, Director Thua Thien Hue Forest Department, personal communication.

PEOPLE MANAGING FOREST – A WAY FORWARD?

Viet Nam's forest sector has been starting to involve different actors in the management of forest resources. The policy and legal framework have been adapted in order to recognize different forms of forest tenure, among which the balance between forest management and poverty alleviation varies. Although improved incomes and the creation of employment for forest-dependent people have been incorporated as objectives in the forestry development strategy (MARD, 2001a), the management of forest resources as State property is still a common arrangement, and forest protection and development remain major targets for the forest sector. Although the legal framework has started to adapt to changing trends in forest management, forest policies in Viet Nam are still strongly protection-oriented. Because of their importance in conserving and protecting resources, habitats, species, biodiversity, watersheds and other important environmental values, protected areas under State management appear to have more important environmental implications than forest under other management arrangements. Sustainable forest management is therefore an important target under State management, and organizations managing forest as State property have to protect and develop their allocated forest areas for conservation and environmental purposes. In fact, most of the forest areas under State management are classified as protection and special-use forests. Community development to improve the livelihoods and reduce the poverty of forest people is recognized as a condition for sustainable forest management, but only insofar as it serves forest protection purposes.

Under private property, forest owners are bound by responsibilities and tasks attached to the forest they are given. In purely economic terms, private forest owners can be compared to private firms whose activities are directed to their own goals; for forest owners, one of these goals is to prevent the forest from being taken back by the State.⁹² This applies particularly to organizational

⁹² By Vietnamese law, the State retains the right to take back any land (and forest) if its owner appears to be neglecting or abusing it, as specified in the land-use title.

owners (e.g., private and State enterprises), in whose production strategies forest land allocated by the State is an important asset. Although some forest enterprises pay attention to income generation and livelihood improvement for local people, the extent to which forest management by SFEs contributes to poverty reduction is very limited.

When local people are the owners, the management of forest as private property contributes more to livelihood improvement and, to a certain extent, poverty alleviation than it does with organizational owners. However, additional factors need to be present for forest management by local households to contribute to poverty alleviation. The benefits that a household derives from its forest depend not only on its legal rights to the forest but also on its ability, and poor households need help in strengthening their ability to benefit from forest. Another important factor is market conditions. Without available markets for forest products, it is difficult for poor rural households to generate cash income from their plantations. If they are to contribute to poverty alleviation, any factors that improve local livelihoods must be accompanied by activities to strengthen the abilities of poor rural people. When poor people lack the capacity to make use of favourable conditions, any livelihood improvement risks widening the economic gap between rich and poor, as the former are better able to make use of emerging opportunities, thereby becoming richer.

Forest can contribute to poverty alleviation when forest benefits are distributed through a mechanism that considers the poorer members within the community. Practical experience in Viet Nam and other countries shows that communities are able to regulate the viable use of forest resources and the equitable distribution of forest benefits among their members, thereby enabling the poor and disadvantaged groups to benefit. Box 8 illustrates how communal forest management can help the poor; the management of forest as common property was proven to be appropriate. In the Box 8 example, there were specific conditions that helped collective forest resources management. First, villagers shared a common understanding of the importance of forest, and the occurrence of a severe flood in 1999 had increased their awareness about the need to protect forest for their own livelihoods. Second, the State supported the villagers' realization of their new rights and responsibilities by establishing a local forest protection office, which also supplied technical advice about forest tending and maintenance. Third, the village was confident about its ability to protect and benefit from the forest and was willing to experiment with the new form of management. Fourth, the village was given a certain level of autonomy within which it could decide what to do regarding, for example, the distribution of benefits and the exclusion of outsiders. Fifth, the villagers were clear about their rights and responsibilities (costs and benefits) in participating in the experiment. All these conditions made for successful management of the allocated forest as common property in Thuy Yen Thuong.⁹³

The forest monitoring system follows standardized forms regulated by Decision 78/2002/QĐ-BNN, but the structure of these forms is not sufficiently flexible to reflect various groups of forest owners at the local level (Annex 6). With changing trends in forest management and the presence of various experimental forms of management at the local level, many provinces find it difficult to categorize all the different types of forest owner according to the limited number of columns on the forms. FPD has revised the forms, but they still fail to capture all the local variations. Resource monitoring appears to work better in provinces where there is less variation (e.g., fewer types of forest ownership) than in those with great diversity. In Son La, for example, there are ten specific groups of owner: individual households, household groups, communities (villages), mass organizations (e.g., women's unions and youth unions), schools, State agroforestry enterprises, army units, MBSFs, the Department of Agriculture and Rural Development (which manages the protection forest while MBPFs are set up), and other forestry organizations. The limit of eight groups of owners on the monitoring form requires the aggregation of forest data to fit the form.

Regarding the implications of forest devolution on different stakeholders, experiences in Viet Nam show that although there are variations across different locations, local households generally achieve (or have the potential to achieve) higher economic benefits from forest resources after devolution (Nguyen, 2005b). However, forest devolution also implies additional costs (mostly in terms of labour for forest protection) for participating households. For local households that are not

⁹³ These conditions can be compared with the seven important attributes of resource users for successful collective action, as discussed by Ostrom (1999): salience, common understanding, discount rate, distribution of interest, trust, autonomy, and prior organizational experience.

forest owners, devolution does not change their legal position regarding the use of the devolved forest resources, and such households continue to have no legal rights to utilize the forest, as under State forest management. For the State, budget for forest protection (in the case of protection forest) can be saved after devolution.⁹⁴ Because most of the allocated forests are of low to medium quality, and are not in production, SFEs do not suffer from the reduced area of forest land under their management. Immediately after devolution, SFEs save the labour that would have been needed to protect the forest, while local authorities incur the increased costs of personnel to deal with forest management issues raised by local people (Nguyen, 2005b: 163–166 for the case of Dak Lak).

The discussion in this paper indicates that forest management in Viet Nam is complex. It is hard to say which management arrangement works best at the country level in support of sustainable forest management and poverty alleviation. No single solution works in all conditions and for all purposes. The most suitable forest management arrangement for a specific forest depends on the type of forest and the socio-economic, biophysical, cultural and political conditions. In areas of critical importance for environmental and other purposes, State management appears to be more suitable than other tenure arrangements. In less critical protection or in production forest, management by local people (in either collective or individual form) may be a more suitable option for achieving both sustainable forest management and poverty alleviation objectives. The specific form of people's management that is most suitable for a given situation also needs to be viewed in terms of the local context. In general, where local conditions support the management of forest as common property (Ostrom, 1999), forest management by the community may be more suitable than management by individual households because of the community's collective strengths in equitably distributing forest benefits among its members and in helping poor and disadvantaged members.

⁹⁴ Except for in Son La, where local households continue to receive funds for protecting the allocated forest.

Proposals for the way forward

Over the last two and a half decades, the forest sector of Viet Nam has undergone radical reform. Changes in forest management were driven by a rapid decline in the national forest area during the decade after unification, the ineffectiveness of the SFE system as the main manager of forest, the State's recognition of local people's important role in forest management, and the successful reform of the agriculture sector in the late 1980s. The reform represents great advances for the Vietnamese forest sector in improving forest cover and involving different stakeholders, particularly local people, in the management of forest resources. As a result of the reform, State-owned forest enterprises are no longer the only managers of forest, and different forest tenure arrangements have gradually been introduced.

At present, throughout the country, about eight major groups of forest owners have been identified, managing forest under three property regimes: State property (State organizations managing forest for environmental and conservation purposes); private property (organizations and individual households managing forest for commercial, production and protection/environmental purposes); and common property (groups of households or communities managing forest for production and protection/environmental purposes). Forest management under contractual arrangement is also present. SFEs, MBPFs, MBSFs, individual households, collectives and PCs are the six largest forest owners, managing more than 97 percent of the total forested area in Viet Nam. The remaining forest is managed by joint venture enterprises and army units.

In terms of improved local livelihoods and poverty alleviation, the paper has shown that people's management of forest resources appears to be more effective than forest management by any other owners. This reflects changing trends in current forest policies and legislation towards more and better involvement of local people, along with other actors, in managing forest resources. Various legal documents demonstrate the State's intention to reduce the area of forest under management by State organizations. For example, Prime Minister's Decision 187/1999/QD-TTg specifies that SFEs should survey their existing forests and give "unproductive" areas back to local authorities for allocation to the people.

The legal framework has to adapt to the changing trends in forest management. Various policy and legal documents have been issued to legalize and guide the management of forest by different actors. At present, two major issues remain to be addressed. First, changes to the policies and legislation have been made too quickly over the last decade and a half. For example, three important documents specifying regulations regarding the benefits and obligations of forest owners were issued within less than four years. While on the one hand these quick changes to the legal framework reflect policy-makers' rapid response to changing trends, on the other hand they create confusion for both the local agencies responsible for implementing laws and the people. Another issue is the complexity of legal documents. Many policies made at the national or provincial level are incomprehensible to the local officials who implement them, not to mention local people. MARD (1998; 1999) shows that even the district staff who implement forest land allocation policies are not clear about the rights of land users. Decision 178/2001/QD-TTg is an example of a complicated policy. It is meant to regulate the entitlements and obligations of forest owners, but the calculation of benefits for specific owners is extremely complicated. This results in slow implementation and confusion in the field that lasts for several years after promulgation. The language used in policy documents also contributes to their complexity. Legal documents make much use of forestry jargon, which is difficult to understand even for experts from other fields, let alone local people.

Forest planning and monitoring systems have also been adapted to changing trends in forest management. FIPI has been assigned the responsibility for technical issues in forest planning and FPD is responsible for annual forest monitoring. FIPI also conducts an inventory of forest resources every five years. Both organizations, particularly FPD, have tried hard to adapt to the current changes, but important issues must still be dealt with to make forest planning and monitoring systems work better in the changing environment. The most important of these is coordination between the forest planning system and the forest monitoring system. At present, the two systems exist independently and there is little, if any, data and experience exchange between them. This

creates overlapping work and incurs extra costs, which could be saved by better coordination. In addition, outputs from the two systems may be inconsistent and confusing to users. Another issue relates to the approach of both systems, which at present is rather top-down, resulting in limited participation of local people in forest planning and inflexibility in forest monitoring.

Given the changing trends in forest management in Viet Nam over the last two decades and based on comparative analysis of forest management under different tenure arrangements and by different owner groups, it is proposed that forest management in Viet Nam in the future move towards the greater involvement of local people – particularly local indigenous communities. To facilitate the changing trends in forest management further and to increase forest management's contribution to poverty alleviation, the following are recommended.

POLICY AND LEGISLATION

It is recommended that policy regarding the management of protection and special-use forests be better balanced between protection on the one hand, and livelihoods and poverty alleviation on the other. In areas of forest where strict protection is needed for conservation and environmental purposes, local people should be offered alternatives for their foregone use of the forest resources on which their livelihoods depend. In other words, people living in protected areas should be rewarded for the environmental services generated by the forest that they have to refrain from using. Currently, 5MHRP pays D50 000/ha per year for the protection of forest, and this programme should include more poor households in forest protection. Alternatively, under 5MHRP, forest can also be contracted to a community, and the poor can obtain a share of the benefits of this. Other payment schemes, such as food subsidies, should be made available for local people to choose from, and funding sources for these schemes should be extended. Currently all funding comes from the State budget, but additional sources could include international donors and downstream users of the environment in Viet Nam and around the world.

In production forests or protection forests where strict protection is not required, initiatives should be taken to involve more local people in managing the forest and benefiting from it. It is recommended that forest management be devolved and local people be given tenure rights to forest resources. Whether forest be given to individual households or a community for management should be considered in consultation with local people, taking into account the biophysical, cultural, socio-economic and historical setting of the village. The form of devolution should not be decided until these conditions have been fully taken into account. Forest devolution should be demand-oriented to avoid imposition from outside the village.

To promote community forest management, the State needs to provide assistance with its formation and operation. For community forestry, the most important area where State assistance is needed is in strengthening communities' power to realize their rights, which can be achieved through clear guidance on the structure to be set up and run at the community level, frequent back-up visits from local forest officials, and early response to communities' requests for help. CFWG is working on guidelines to help the future development of community forestry, including providing clear instructions on communities' rights, responsibilities and options. The language of guidelines should be simple and clear so that local people can understand and follow them. In addition, it is recommended that the legal framework recognize the rights of communities to mortgage their forest RBCs for loans and to use their forests in joint venture undertakings, as these two rights will help communities to commercialize their forests better.

In order for forest devolution to contribute more to poverty alleviation, it is recommended that devolution be followed by the implementation of capacity improvement programmes, and that poor and disadvantaged households/villages be given priority in obtaining access to these programmes. Because the poor are often unable to use the opportunities for achieving the economic benefits that devolution brings, strengthening of their ability to benefit from forest devolution will enable them to emerge from poverty.

It is recommended that policies and legislation be more concrete and easier to understand. Ordinary language should be added when forestry jargon is used, and important legal documents should be transcribed into simple language with concrete messages for distribution to rural (upland) people. Policies and legislation should also be more stable so that local people can keep abreast of the current policy framework.

FOREST PLANNING AND MONITORING

It is strongly recommended that the forest planning and monitoring systems be harmonized; MARD should take the lead in this. Responsible people from FIPI, FPD and MARD should work out the general structure of a single planning and monitoring system, based on the two existing systems. The responsibilities of each organization and the standard operating procedures should also be agreed.

It is recommended that a participatory approach be consistently applied to forest planning, to ensure that plans reflect the different interests of all stakeholders. In addition, a comprehensive master plan for the whole nation is needed to guide forest planning in the regions and provinces.

A more flexible forest monitoring structure is recommended. This should be able to capture the diversity of conditions and forest owners at the local level, while allowing concise summaries of data at the national level. In other words, the structure should allow the aggregation of detailed data and the disaggregation of summary data. To make this easier, data sets should be divided into sub-sets and divided again to a maximum of four levels so that data can be aggregated by adding up the sub-set, while variations across locations are captured. In addition, the structure should be flexible so that new variables can be added without the whole system having to be revised.

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ANNEX 2: EXAMPLE OF THUY YEN THUONG VILLAGE REGULATIONS

Regulations on Forest Protection and Development in the Community of Thuy Yen Thuong Village

Based on Law on Forest Protection and Development dated 12 August 1991.

Based on Directive of the Prime Minister 24/1998/CT-TTg dated 19 June 1998 concerning preparation and implementation of rules, regulations and agreements at the village level.

Based on results of meeting in Thuy Yen Thuong village.

We hereby agree with the following village regulations on forest protection and development and pledge to implement the contents:

Part I: What has to be done:

- . Follow the orientations and policies of the Communist Party and of the State. Implement State regulations on forest protection and development in a serious manner.
- . Actively participate in the protection of the area of forest allocated to the village. Implement the regulations on fire prevention and extinguishing in a serious manner. Upon notice, immediately report to the village, local forest protection official or Communal People's Committee (CPC) any forest fire and participate in extinguishing the fire. Before starting any fire on cleared vegetation for forest plantation or on fields near the forest, inform the village or local forest protection unit for inspection.
- . Uncover and report people involved in unauthorized exploitation, transaction and transportation of forest products and in damaging forest products. Participate in taking these people into custody and handing them over to the village or competent organizations for settlement.

Part II: What is permitted

- . Receive land for forest plantation and forest for protection. Participate in activities related to production and forest protection organized by the village or CPC.
- . Raise cattle under the forest canopy in accordance with current regulations.
- . Improve household economic situation through agroforestry production.

Part III: What is encouraged

- . Apply technical and scientific advancements, intensively invest in forest plantation, forest tending and protection, create good forest tending model for other households in the village to learn from.
- . Survey *in situ* flora species. Produce seedlings of *in situ* species for planting in existing Acacia and Eucalyptus forest plantations.
- . Set up a 15 ha plantation on the hill where the spring emerges to create a village welfare fund. All members of the village are requested to respect the following regulations:
 - Every household will participate in tree planting festivals or New Year's tree planting days with a minimum quota of 20 trees per capita.
 - Each newly wedded couple will plant 100 trees. For every child born, the couple will plant 50 trees in the village plantation.
 - Every student finishing secondary school will plant 50 trees and every student finishing high school will plant 100 trees.
- . The road from An Bang village to Ba dam will be named "the road I love" and will be cared for by the young pioneers. Divisions of 250 to 300 m in length will be made and each road segment will be assigned to children of An Bang village, naming from one through ten. At the New Year's tree planting, each child will plant ten trees on the two sides of the road.

In addition, on being mobilized, each household will contribute five labour days for tree planting, tree tending and the construction of village social welfare works. Any household that does not contribute labour will pay D20 000 for each day of labour.

Set up an action team with members from village youth led by the head of the village youth union to take care of forest protection and village security.

Part IV: What must not be done

Exploit, transport, transact, store and use timber and other forest product illegally.

Hunt, trap and use wildlife illegally.

Use dynamite or electricity to catch aqua products from springs in the forest area.

Use dynamite to exploit rock, excavate land causing landslides and damage the land.

Clear forest and use fire in the forest for cultivation purpose; burn forest for charcoal under any form.

Use fire carelessly in the forest, use fire to scare bees for honey, use fire to burn trees for fuelwood and look for materials from the war.

Encroach land classified for plantation or land that belongs to other people, leading to land conflict.

Part V: Rights of the community and the villagers

Entitled to own products from forest plantation, other products from forest protection. Free to trade these products.

Entitled to State policies that apply to people living near forests.

Entitled to village selection for proposal to the State concerning permission to exploit and use timber and other products according to the following priorities:

a. On targets:

Collective: priority is given to works that serve production purposes, such as irrigation, agricultural production tools, construction or maintenance of nurseries.

Households:

Households that are the targets of social policy and are facing problems with housing and timber furniture.

Poor households who participate in forest protection and development and who are selected by local people.

Other poor households in the village.

b. On purposes:

Timber for coffins.

Timber for production and social welfare.

Timber for domestic use.

The quantity of timber that households or collectives are entitled to follows the forest land allocation plan approved by the PPC.

Part VI: Responsibilities and rights of the village

Responsibilities:

Guide and direct local households in the implementation of regulations and in forest protection and development work.

Organize conflict resolution and information briefings for those who violate the village's forest protection and development.

Find examples of good people and good deeds in forest protection and development,

and request recognition of merit from high level.

Rights:

Organize prevention and prepare records of violations of forest protection and development regulation, in particular, and of the law, in general. Report to higher level for resolution.

Refuse or accept proposals for exploitation of timber and forest products by local households.

Request the violator to provide compensation in labour days and value of damage to the victim.

Organize periodical (monthly) or occasional meetings to evaluate the situation and criticize individuals or households that violate village regulations.

Part VII: Awards and Penalties

Awards:

Households and individuals who implement forest protection and development work and the village regulations well will not only be praised by the villagers but will also be recommended to the State for compliments and priority in obtaining permission to exploit timber and forest products.

Penalties:

Households and individuals who violate the regulations will not only be judged by law but also be subject to the following penalties:

Mandatory compensation to the victim in addition to a fine of five labour days to tend and protect the village's forest.

Ineligibility for village proposal for the exploitation of timber and forest products during the period the sentence is applied.

Public criticism and reproach. Repeated violations will lead to ineligibility for participation in village traditional activities.

Part VIII: Provisions for implementation

These regulations apply to all members of the village and will be in effect on the day they are approved by the District People's Committee.

The regulations will be made available to all people in the village for implementation.

**Certified by the Loc Thuy CPC
village**

Representatives of Thuy Yen Thuong

ANNEX 3: SELECTED ARTICLES FROM THE LAW ON FOREST PROTECTION AND DEVELOPMENT

This law was passed by the Eleventh National Assembly of the Socialist Republic of Viet Nam at its sixth session on 3 December 2004. (Unofficial translation from MARD International Support Group: available at: www.isgmard.org.vn.)

Article 4. Forest classification

Based on their major use purposes, forests are classified into three following kinds:

1. Protection forests, which are used mainly to protect water sources and land, prevent erosion and desertification, restrict natural calamities and regulate climate, thus contributing to environmental protection, including:

- a) watershed protection forests;
- b) wind and sand break protection forests;
- c) protection forests for tide shielding and sea encroachment prevention;
- d) protection forests for environmental protection.

2. Special-use forests, which are used mainly for conservation of nature, specimens of national forest ecosystems and forest biological gene sources; scientific research; protection of historical and cultural relics and landscapes; recreation and tourism, in combination with protection, contributing to environmental protection, including:

- a) national parks;
- b) nature conservation areas, including nature reserves and species conservation areas;
- c) landscape protection areas, including forests of historical or cultural relics and scenic landscapes;
- d) scientific research and experiment forests.

3. Production forests, which are used mainly for production and trading of timber and non-timber forest products in combination with protection, contributing to environmental protection, including:

- a) natural production forests;
- b) plantation production forests;
- c) seeding forests, including selected and recognized planted forests and natural forests.

Article 5 Forest owners

1. The protective forest or special use forest management boards that are assigned forests or land by the State for forest development.

2. Economic organizations that are assigned or leased forests or land by the State for forest development or that have forest use rights and ownership rights over planted production forests recognized by the State or are transferred with such rights.

3. Domestic households and individuals that are assigned or leased forests or land by the State for forest development or that have forest use rights and ownership rights over planted production forests recognized by the State or are transferred with such rights.

4. People's armed force units that are assigned forests or land by the State for forest development.

5. Organizations involved in forestry-related scientific research and technological development, training or vocational training that are assigned forests or land by the State for forest development.

6. Overseas Vietnamese nationals investing in Viet Nam and assigned or leased forests or land by the State for forest development.

7. Foreign organizations and individuals investing in Viet Nam and leased forests or land by the State for forest development.

Article 6 The State's rights over forests

1. The State uniformly manages and disposes of natural forests and forests developed with the State's capital, forests being planted forests over which the ownership right has been transferred from forest owners to the State; forest wild animals; forest micro-organisms; forest landscapes and environment.
2. The State exercises the right to dispose of the forests prescribed in Clause 1 of this Article as follows:
 - a) to decide on forest use purposes by approving and deciding on forest protection and development planning and plans;
 - b) to stipulate forest assignment quotas and forest use terms;
 - c) to decide forest assignment, lease and recovery and to permit the change of forest use purposes;
 - d) to value forests.
3. The State regulates forest benefit sources through the following financial policies:
 - a) collecting forest use levies and forest rents;
 - b) collecting tax on forest use right transfer and transfer of the ownership right over planted production forests.
4. The State renders forest use rights to forest owners in the forms of forest assignments, forest leases, recognition of forest use rights or ownership rights over planted production forests; and prescribes forests owners' rights and obligations.

Article 30. Rights and obligations of village communities with assigned forests

1. Village communities with assigned forests shall have the following rights:
 - a) To have their forest use rights recognized by competent State bodies for stable and long-term forest assignment terms.
 - b) To exploit and use forest products and other forest yields for public purposes and domestic use for community members; to conduct combined forestry/agriculture/fishery production according to this law's provisions and forest management regulations.
 - c) To enjoy the fruits of their labour and investment from the assigned forest areas.
 - d) To be provided with technical guidance and capital support according to the State's policies for forest protection and development and to benefit from forest protection and improvement works.
 - e) To be compensated for their labour and investment for forest protection and development according to the provisions of this law and other relevant provisions when the State issues forest recovery decisions.
2. Village communities with assigned forests shall have the following obligations:
 - a) To formulate forest protection and development rules compatible with this law's provisions and other relevant provisions, submit them to the People's Committees of rural or urban districts, provincial towns or cities for approval and organize the implementation thereof.
 - b) To organize forest protection and development, periodically report to competent State agencies on changes of forest resources and activities related to forests under the guidance of commune/ward/township People's Committees.
 - c) To fulfil financial obligations and other obligations under law provisions.
 - d) To return forests when the State issues forest recovery decisions or at the end of the forest assignment term.
 - e) Not to divide forests among their members; not to convert, transfer, donate, lease, mortgage, provide guarantee or contribute business capital with the value of the use rights over the assigned forests.

Chapter V: RIGHTS AND OBLIGATIONS OF FOREST OWNERS: Section 1. General provisions on the rights and obligations of forest owners

Article 59. Common rights of forest owners

1. To have their forest use rights and the right to use planted production forests recognized by competent State agencies.
2. To use forests for a stable, long-term forest assignment or lease term, as well as the land assignment or lease term.
3. To combine forestry/agriculture/fishery production according to the forest management regulations, except for special use forests.
4. To enjoy the fruits of their labour and investment in the assigned or leased areas; to sell such fruits and results to others.
5. To combine scientific research, landscape business, convalescence and eco-environmental tourism according to projects ratified by competent State bodies.
6. To be compensated for their labour and investment for forest protection and development according to the provisions of this law and other relevant provisions when the State issues decisions to recover forests.
7. To be provided with technical guidance and capital supports according to the State's policies on forest protection and development and to benefit from the public works of forest protection and improvement.
8. To have their legitimate rights and interests related to the assigned or leased forests protected by the State.

Article 60. Common obligations of forest owners

1. To conserve forest funds and develop forests in a sustainable manner; to use forests for the right purposes within the boundaries defined in the forest assignment or lease decisions and according to the forest management regulations.
2. To organize forest protection and development according to the approved planning, plans, projects and schemes.
3. To report periodically to competent State bodies on forest resource developments and activities related to forests according to the provisions of Clause 2, Article 32 of this law.
4. To return forests to the State when the latter issues decisions to recover forests or when the forest use terms expire.
5. To fulfil financial and other obligations according to law provisions.
6. To observe the provisions of this law and other provisions; not to cause harms to legitimate interests of relevant organizations and individuals.

Section 2. Rights and obligations of forest owners being management boards of special use or protection forests

Article 61. Rights and obligations of special use forest management boards

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To be assigned forests under package contracts according to forest protection and development plans approved by competent State bodies and the government's regulations.
3. To lease forest landscape to economic organizations for commercial eco-environmental tourism under projects ratified by competent State bodies.
4. To conduct or cooperate with organizations and scientists in conducting scientific research according to plans approved by competent State bodies.

5. To organize international cooperative activities within the ambit of their tasks and powers.
6. To formulate and organize the implementation of forest protection rules.
7. To elaborate and submit to competent State bodies for approval forest management, protection and development schemes and implement the approved schemes.

Article 62. Rights and obligations of protection forest management boards

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To exploit forest products in protection forests according to the provisions of Article 47 of this law.
3. To exploit forest products according to the provisions of Clause 2, Article 55, Points b and d of Clause 2, Point a of Clause 3 and Clause 4 of Article 56 and Clause 2 of Article 57 of this law on production forest areas intermingled in the protection forests assigned to them.

Section 3. Rights and obligations of forest owners being economic organizations

Article 63. Rights and obligations of economic organizations assigned production forests being seeding forests by the State without the collection of forest use levies

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To sell products of seeding forests and forest saplings according to the forest management regulations.
3. To mortgage, provide guarantee or contribute capital to the value of production forests planted with their own capital.
4. Not to convert, transfer, donate or lease forests or forest use rights; not to mortgage, provide guarantee or contribute capital with the value of the right to use natural production forests or production forests planted with capital of State budget origin.
5. The production and trading of forest saplings must comply with the legislation on plant varieties as well as with legislation on forest protection and development.

Article 64. Rights and obligations of economic organizations assigned production forests by the State with the collection of forest use levies or transferred with production forests

1. In cases where the paid forest use levies or forest transfer money amounts originate from the State budget, forest owners shall have the following rights and obligations:
 - a) To have the rights and obligations prescribed in Articles 59 and 60 of this law.
 - b) To enjoy the added value of forests; to exploit forest products in production forests according to the provisions of Clause 2 of Article 55, Points b and d of Clause 2, Point a of Clause 3 and Clause 4 of Article 56 and Clause 2 of Article 57 of this law.
 - c) To lease forests to organizations, households or individuals for combined forestry/agriculture/fishery production, landscape business, convalescence, eco-environmental tourism and scientific research according to the forest management regulations.
 - d) Not to convert, transfer or donate the rights to use or own planted production forests.
 - e) To mortgage, provide guarantee or contribute capital with only the added value of forest use rights, brought about by the forest owners' investments as compared with the value determined at the time of forest assignment.
2. In cases where the paid forest use levies or forest transfer money amounts have not originated from the State budget, forest owners shall have the following rights and obligations:
 - a) To have the rights and obligations prescribed in Articles 59 and 60 of this law

- b) To enjoy the added value of forests; to exploit forest products in production forests according to the provisions of Clause 2 of Article 55, Points b and d of Clause 2, Point a of Clause 3 and Clause 4 of Article 56 and Clause 2 of Article 57 of this law.
- c) To transfer forest use rights and the ownership right over planted production forests; to mortgage, provide guarantee or contribute capital with the value of forest use rights and the value of planted production forests.
- d) To lease forests to organizations, households or individuals for combined forestry/agriculture/fishery production, landscape business, convalescence, eco-environmental tourism and investment in scientific research according to the forest management regulations.

Article 65. Rights and obligations of economic organizations assigned protection forests by the State

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To exploit forest products in protection forests according to the provisions of Article 47 of this law.
3. Not to convert, transfer, donate or lease the rights to use protection forests assigned by the State.

Article 66. Rights and obligations of economic organizations leased production forests by the State

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To exploit forest products in production forests according to the provisions of Clause 2 of Article 55, Points b and d of Clause 2, Point a of Clause 3 and Clause 4 of Article 56 and Clause 2 of Article 57 of this law.
3. To own trees, animals and property associated with the planted forests invested by forest owners during the lease term.
4. To mortgage, provide guarantee or contribute capital with only the added value of forest use rights brought about by forest owners' investments compared with the forest use right value determined at the time of forest lease according to law provisions.

Article 67. Rights and obligations of economic organizations leased protection forests or special use forests being landscape protection areas by the State

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To exploit forest products in leased protection forests according to the provisions of Article 47 of this law.
3. To exploit forest products in special use forests being landscape protection areas according to the provisions of Article 51 of this law.

Article 68. Rights and obligations of economic organizations assigned or leased afforestation land by the State

1. Economic organizations assigned land by the State to plant production forests or protection forests with non-State budget capital shall have the following rights and obligations:
 - a) To have the rights and obligations prescribed in Articles 59 and 60 of this Law.
 - b) To own forest trees, animals and property on the land planted with forest.
 - c) To exploit forest products according to the provisions of Clause 3 and Clause 4 of Article 47 and Clause 2 of Article 57 of this law.
 - d) To transfer, lease or donate land use rights; to mortgage, provide guarantee or contribute capital with land use rights according to the provisions of land legislation.

- e) To transfer, donate, lease or donate the value of planted production forests.
 - f) To join domestic organizations, households or individuals as well as overseas Vietnamese nationals by contributing capital with the value of planted production forests.
2. Economic organizations leased land by the State to plant production forests or protection forests shall have the following rights and obligations:
- a) To have the rights and obligations prescribed in Articles 59 and 60 of this Law.
 - b) To own forest trees, animals and property on the land planted with forest.
 - c) To exploit forest products according to the provisions of Clause 3 and Clause 4 of Article 47 and Clause 2 of Article 57 of this law.
 - d) To transfer or donate the planted production forests; to mortgage or provide guarantee with the value of planted production forests at Viet Nam-based credit institutions.
 - e) To join domestic organizations, households or individuals as well as overseas Vietnamese nationals by contributing capital with the value of planted production forests.

Section 4. Rights and obligations of forest owners being households and individuals

Article 69. Rights and obligations of households and individuals assigned protection forests by the State

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To build forests under the guidance of competent management agencies in charge of forests.
3. To exploit, use forests and fully tap forest products according to the provisions of Article 47 of this law.
4. To swap the assigned forest areas with other households or individuals in the same communes, wards or townships; individuals may bequeath their forest use rights according to law provisions.

Article 70. Rights and obligations of households and individuals assigned production forests by the State

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. For planted production forests, to exploit them according to the provisions of Clause 2 of Article 57 of this law; to transfer, donate, lease, mortgage, provide guarantee or contribute capital with their value according to law provisions.
3. For natural production forests, to exploit them according to the provisions of Article 56 of this law; to mortgage, provide guarantee or contribute capital with only the added value of forest use rights that is brought about by forest owners' investments compared with the forest use right value determined at the time of forest assignment according to law provisions.
4. Individuals may bequeath their forest use rights under law provisions.

Article 71. Rights and obligations of households and individuals leased production forests by the State

1. To have the rights and obligations prescribed in Articles 59 and 60 of this law.
2. To enjoy the added value of forests brought about by forest owners' investments in the lease terms according to law provisions.
3. To mortgage, guarantee or contribute capital with the value of planted production forests that they have invested in according to law provisions.
4. For production forests planted with State budget capital:
 - a) to exploit them according to the provisions of Point b, Clause 2 of Article 57 of this law;

- b) to transfer, sublease the forest use rights according to law provisions.
5. For natural production forests:
- a) to exploit them according to the provisions of Article 56 of this law;
 - b) to mortgage, provide guarantee or contribute capital with only the added value of forest use rights that is brought about by forest owners' investments compared with the forest use right value determined at the time of forest lease according to law provisions.

Article 72. Rights and obligations of households and individuals assigned or leased afforestation land by the State

1. Households and individuals assigned or leased afforestation land by the State shall have the following rights and obligations:
- a) To have the rights and obligations prescribed in Articles 59 and 60 of this law.
 - b) To own forest trees, animals and property on the land planted with forest.
 - c) To exploit forest products according to the provisions of Clause 3 and Clause 4 of Article 47 and Clause 2 of Article 57 of this law.
 - d) To mortgage, provide guarantee or contribute capital with land use rights according to the provisions of land legislation.
 - e) To transfer, donate or sublease planted production forests; to mortgage or provide guarantee with the value of planted production forests; to join domestic organizations, households or individuals as well as overseas Vietnamese nationals by contributing capital with the value of planted production forests; individuals may bequeath forests according to law provisions.
2. Households and individuals leased land by the State to plant production forests or protection forests shall have the following rights and obligations:
- a) To have the rights and obligations prescribed in Articles 59 and 60 of this law.
 - b) To own forest trees, animals and property on the land planted with forest.
 - c) To exploit forest products according to the provisions of Article 47 and Article 57 of this law.
 - d) To transfer or donate planted production forests; to mortgage or provide guarantee with the value of planted production forests at Viet Nam-based credit institutions; individuals may bequeath forests according to law provisions.
 - e) To join domestic organizations, households or individuals as well as overseas Vietnamese nationals by contributing capital with the value of planted production forests.
3. Households and individuals assigned or leased afforestation land by the State, if making investment by themselves in the application of measures to zone off for tending and regeneration or creation of production forests or protection forests on land without forests, shall also have the rights and obligations prescribed in Clause 1 of this Article in cases where they are assigned land; and shall have the rights and obligations prescribed in Clause 2 of this Article in cases where they are leased land.

ANNEX 4: RELEVANT POLICIES AND LEGISLATION

The following are the policies and legislation relevant to forest management in Viet Nam (the list is not exhaustive).

Constitution of the Socialist Republic of Viet Nam, 1992.

Land Law, passed by the National Assembly on 26 November 2003.

Law of Forest Protection and Development, passed by the National Assembly on 3 December 2004.

Decree No. 64/CP issued by the Prime Minister on 27 September 1993 concerning regulations on allocating agricultural land to households and individuals for permanent agricultural uses.

Decree No. 02/CP issued by the Prime Minister on 15 January 1994 concerning regulations on allocating forest land to organizations, households and individuals for stable, long-term use in forestry purposes.

Decree No. 01/CP issued by the Prime Minister on 4 January 1995 concerning regulations on land allocation and utilization for agricultural, forestry and aquaculture purposes within State-owned enterprises.

Decree No. 08/1997/QH 10 of the Tenth National Assembly, Second Session on the 5 Million Hectare Reforestation Project.

Decree No. 163/1999/ND-CP issued by the Government on 16 November 1999 concerning allocation and leasing of forest land to organizations, households and individuals for long-term and sustainable use in forestry purposes.

Decree No. 38/2000/ND-CP issued by the Government on 23 August 2000 concerning land use fee collection.

Decree No. 66/2001/ND-CP issued by the Government on 23 August 2000 regarding amendments/modifications to several clauses in the Decree No. 04/2000/ND-CP dated 11 February 2000 on amendments/modifications of provisions of the Law of Land.

Decree No. 68/2001/ND-CP issued by the Government on 1 October 2001 regarding land use planning and projections.

Decree 28/NQ-TW issued by the Politburo on 16 June 2003 concerning restructuring and strengthening the capacity of State forest enterprises.

Directive No. No. 286/TTg issued by the Prime Minister on 2 May 1997 concerning the strengthening of urgent measures for forest protection and development.

Directive No. 287/TTg issued by the Prime Minister on 2 May 1997 concerning the checking and tracking down of individuals and organizations causing damage to forests.

Directive No. 12/2003/CT-TTg issued by the Prime Minister on 16 May 2003 concerning the enhancement of urgent measures for forest protection and development.

Decision No. 202/TTg issued by the Prime Minister on 2 May 1994 promulgating the regulations on forest protection contracting for natural forest regeneration and forest plantation.

Decision No. 245/1998/QD-TTg issued by the Prime Minister on 21 December 1998 regarding execution of the State's management functions at different levels over forest and forest land.

Decision No. 661/TTg issued by the Prime Minister on 29 July 1998 concerning objectives, tasks, policies and implementation arrangements for the 5 Million Hectare Reforestation Project.

Decision No. 07/1998/QD-TTg issued by the Prime Minister on 16 January 1998 regarding establishment of a National Steering Committee for the 5 Million Hectare Reforestation Project for the period 1998 to 2010.

Decision No. 187/1999/QD-TTg issued by the Prime Minister on 16 September 1999 regarding renovation of the organization and management mechanism of State forest enterprises.

Decision No. 08/2001/QD-TTg issued by the Prime Minister on 11 January 2001 promulgating the regulation on management of special use forest, protection forest and production forest as natural forest.

Decision No. 178/QD-TTg issued by the Prime Minister on 12 November 2001 concerning entitlements and obligations of individuals and households allocated or leased with forest or forest land.

Inter-Ministerial Circular No. 1442/1999/TTLT/BNN-TCDC issued by the Ministry of Agriculture and Rural Development and the General Department of Land Administration on 21 September 1999 regarding instructions to issue land use certificates in accordance with Directive No. 18/1999/CT-TTG issued by the Prime Minister on 1 July 1999.

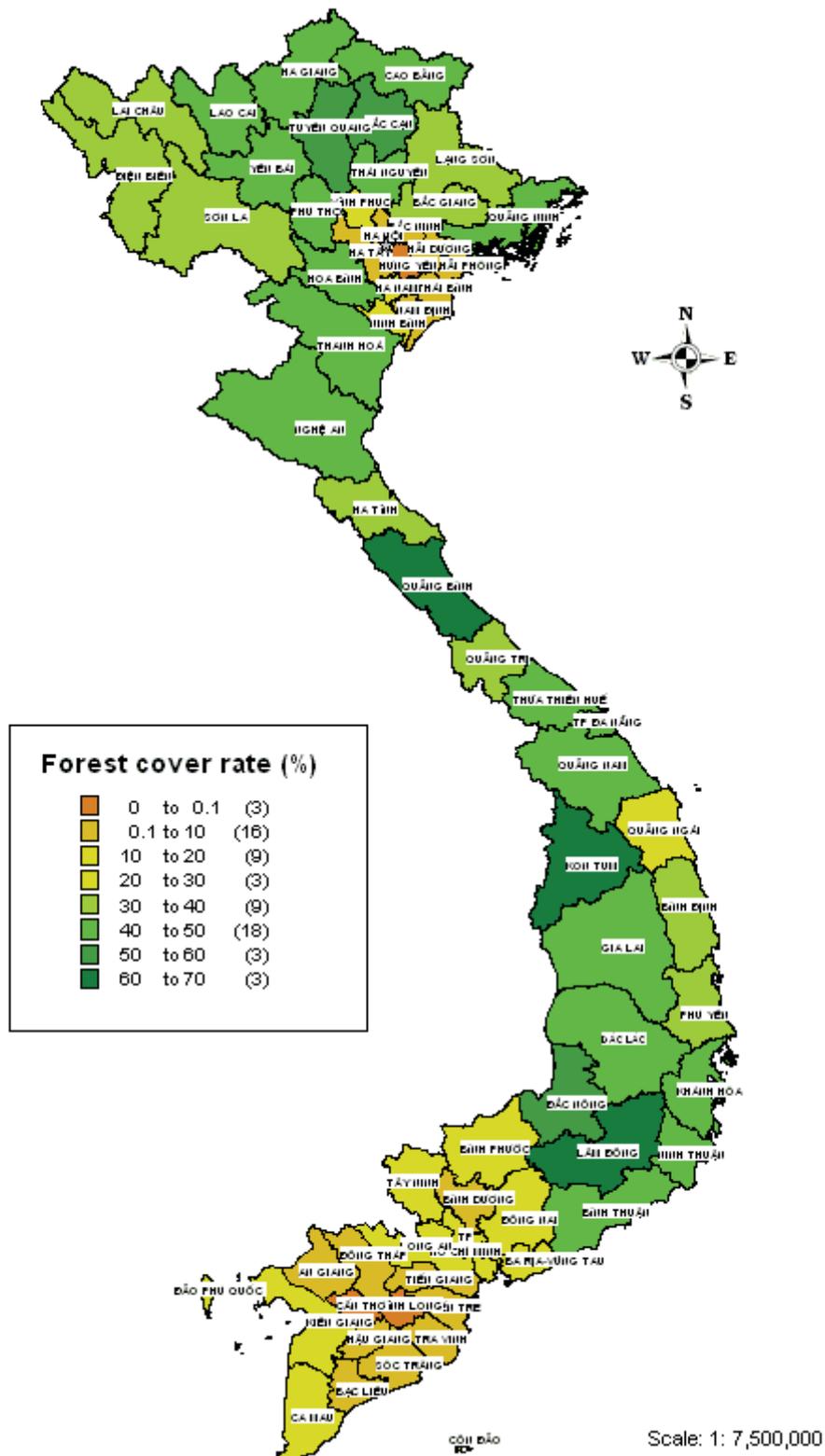
Inter-Ministerial Circular No. 62/2000/TTLT/BNN-TCDC issued by the Ministry of Agriculture and Rural Development and the General Department of Land Administration on 6 June 2000 giving instructions on land allocation, land lease and the issuance of land use certificates.

Circular No. 1842/2001/TT-TCDC issued by the General Department of Land Administration on 1 November 2001 regarding instructions to implement the Government's Decree No. 68/2001/ND-CP of 1 October 2001 on land-use planning and projections.

Circular No. 1990/2001/TT-TCDC issued by the General Department of Land Administration on 30 November 2001 regarding instructions on procedures for land registration, land record preparation and land-use certificate issuance.

Inter-Ministerial Circular No. 80/2003/TTLT/BNN-BTC issued by the Ministry of Agriculture and Rural Development and the Ministry of Finance on 3 September 2003 regarding instructions on implementing the Prime Minister's Decision No. 178/2001/QD-TTg of 12 November 2001 on the entitlements and obligations of households and individuals allocated/leased/given forest and forest land.

ANNEX 5: POLITICAL AND FOREST COVER MAP OF VIET NAM



ANNEX 6: STANDARD FORMS FOR FOREST RESOURCE MONITORING

Applied in 2004

Form 1: Area of forest and forest land in the country

Forest and forest land type	Land type code	Changes in forest area		Classified according to function		
		(in Vietnamese)	(in Vietnamese)	(in Vietnamese)	(in Vietnamese)	(in Vietnamese)
I. Forested land						
<i>A. Natural forest</i>						
1. Timber forest						
2. Bamboo forest						
3. Mixed forest						
4. Mangrove forest						
5. Forest on rocky mountains						
<i>B. Plantation forest</i>						
Plantations with timber volume						
Plantations with no timber volume						
II. Bare land and unforested hills and mountains						
1. 1a Grassland						
2. 1b Shrubs, scattered timber trees and bamboo						
3. 1c Regenerated trees						
4. Unforested rocky mountain						
5. Sand hills, swamp land						
III. Other land						

Form 2: Area of forest and forest land in the country, by owner group

Forest and forest land types	Land type code	Total area	SFEs	MBPFs	MBSFs	Joint ventures	Individual households	Collectives	Army units	PCs
Row headings as in Form 1										
...										

Form 3: Changes in area of forest and forest land in the country, by cause

Forest and forest land type	Land type code	Total changes	New plantation	Forest exploitation	Forest fire	Forest worms	Forest destruction	Change in forest land use	Natural regeneration	Other
Row headings as in Form 1										
...										

Form 4: Forest cover in the country

Province code	Name of province	Total natural area	Total forest area	Of which:		Bare land classified for forest use	Other land	Forest cover
				Natural forest	Plantation forest			
Only provinces with forest cover					Total	Newly planted		

Form 5: Changes in area of forest and forest land in the country, by cause

Province code	Name of province	Total area	New plantation	Forest exploitation	Forest fire	Forest destruction	Change in forest land use	Natural regeneration	Total
Only provinces with forest cover	...								
	...								

Form 6: Total forest and forest land, by function

Forest and forest land types	Land type code	Total area 2004	Of which:	
			Special-use forest	Production forest
Row headings as in Form 1				
...				

ANNEX 7: AREA OF FOREST AND FOREST LAND IN THE CCOUNTRY, BY OWNER GROUP

Forest and land type	Total area	SFEs	MBPFs	MBSFs	Joint ventures	Individual households	Collectives	Army units	PCs
I. Forested land	33 037 857	4 360 406	2 251 813	2 076 297	68 548	6 101 456	600 172	495 378	17 083 788
<i>A. Natural forest</i>	12 306 858	3 029 660	1 405 753	1 657 340	53 981	2 871 165	284 632	297 188	2 707 140
1. Timber forest	10 088 288	2 411 110	1 156 735	1 563 694	7 952	1 999 509	249 019	249 903	2 450 367
2. Bamboo forest	7 926 825	1 900 782	986 003	1 211 035	5 312	1 453 454	191 929	193 769	1 984 540
3. Mixed forest	799 130	225 271	60 520	71 598	1 472	192 587	22 173	12 595	212 914
4. Mangrove forest	682 642	209 271	76 053	106 330	1 057	123 482	6 015	41 791	118 643
5. Forest on rocky mountains	68 035	13 406	23 553	12 082	32	5 977	1 406	289	11 289
<i>B. Plantation forest</i>	611 657	62 380	10 606	162 648	79	224 009	27 496	1 458	122 980
Plantations with timber volume	2 218 570	618 550	249 018	93 646	46 029	871 656	35 613	47 285	256 773
Plantations with no timber volume	895 244	294 773	118 196	45 798	4 102	280 076	23 767	23 933	104 599
II. Bare land and unforested hills and mountains	1 045 988	281 457	122 719	45 697	41 912	402 959	10 645	16 392	124 207
1. 1a Grassland	81 484	7 495	148	215	0	69 167	946	104	3 408
2. 1b Shrubs, scattered timber trees and bamboo	195 854	34 825	7 954	1 936	15	119 454	255	6 856	24 559
3. 1c Regenerated trees	6 718 576	921 261	557 483	354 246	5 527	1 969 805	240 190	115 567	2 554 496
4. Unforested rocky mountain	2 115 952	225 572	131 171	100 186	2 049	769 046	64 631	26 191	797 106
5. Sand hills, swamp land	2 090 219	338 605	198 417	108 186	1 696	582 569	35 594	50 489	774 663
III. Other land	1 935 032	266 143	131 099	126 942	995	524 289	119 204	36 288	730 071
I. Forested land	358 996	37 779	7 778	15 410	26	90 633	20 748	1 042	185 582
<i>A. Natural forest</i>	218 377	53 162	89 018	3 522	763	3 268	14	1 556	67 073
1. Timber forest	14 012 423	409 485	288 577	64 711	9 039	1 260 486	75 350	82 623	11 822 152

Units: hectares.

Data of 31 December 2004.

Source: (FPD, 2004.